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NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

CYRUS M. SANAI, Plaintiff and Appellant, v. CORELOGIC INFORMATION RESOURCES, LLC, et al., Defendants and Respondents.	B278982 (Los Angeles County Super. Ct. No. BC235671)

APPEAL from a judgment of the Superior Court of Los Angeles County, Dalila Corral Lyons, Judge. Affirmed.

Cyrus Sanai, in pro. per, for Plaintiff and Appellant.

Call & Jensen, David R. Sugden and Melinda Evans for Defendants and Respondents CoreLogic Information Resources, LLC and The Irvine Company LLC.

Jacobson Russell Saltz Nassim & de la Torre, Michael J. Saltz, Sunny S. Nassim and Colby A. Petersen for Harvey A. Saltz.

Cyrus M. Sanai, representing himself in this court, as he did in the trial court, appeals from the judgment entered after an order granting summary judgment in favor of CoreLogic Information Resources, LLC and The Irvine Company, LLC in Mr. Sanai's long-running lawsuit alleging violations of Civil Code section 1785.25, subdivision (a), part of the California Consumer Credit Reporting Agencies Act, and title 15 United States Code section 1681s-2(b), part of the federal Fair Credit Reporting Act (FCRA). Mr. Sanai does not directly challenge the court's order granting summary judgment. Indeed, he did not submit any evidence or file a separate statement in opposition to the motion as required by California Rules of Court, rule 3.1350(e). Instead, Mr. Sanai argues the trial court erred in a series of rulings that so affected the scope and timing of permissible discovery that reversal of the judgment is required. We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

1. *The Rent Dispute, the Negative Credit Report and the Original Complaint*

Mr. Sanai rented an apartment in a Newport Beach apartment complex known as Promontory Point. After the expiration of the original six-month lease, Mr. Sanai continued to occupy the apartment on a month-to-month basis at a monthly rent of $2,165. In September 1998 Mr. Sanai received a letter dated August 31, 1998 from the owner of the apartment complex, Irvine Apartment Communities, LP, stating a new monthly rent of $1,435 was being established for his apartment and offering him the option to renew for a minimum six-month lease up to a 12-month lease, at the monthly rent of $1,410 effective October 1, 1998. A second copy of this letter was taped to Mr. Sanai's door a few days after he had received the original by mail. Mr. Sanai

responded on October 1, 1998 with a letter of acceptance for a 12-month lease, enclosing a rent check of $1,410 for October 1998.[1]

A day after Mr. Sanai's acceptance of the offer set forth in the August 31, 1998 letter, Joe Tortorello, a representative of the owner, informed Mr. Sanai the monthly rental amount was an error and advised him the offer was rescinded. Mr. Sanai responded that he had accepted the offer and the contract was binding. Further discussions between Mr. Sanai and representatives of the owner did not resolve the dispute. In December 1998 a three-day notice to quit was posted on Mr. Sanai's door. Mr. Sanai moved out of the Promontory Point apartment complex in January 1999.

From October 1, 1998 through the time he left his Newport Beach apartment, Mr. Sanai paid rent at the rate of $1,410 per month. Beginning in February 1999, after Mr. Sanai had moved, Tortorello repeatedly telephoned Mr. Sanai and demanded he pay back rent in the amount of $2,781; Mr. Sanai refused. Each party threatened the other with legal action.

The owner of the apartment complex, at least at this point, filed no legal action to enforce its claim for unpaid rent against Mr. Sanai and did not assign the debt for collection. However, it retained U.D. Registry, Inc. (UDR) to inform consumer credit reporting agencies of the claim for unpaid rent against Mr. Sanai. Irvine Apartment Communities completed a form for UDR stating the amount of the unpaid rent was $2,781, the amount

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[1] The parties disputed whether a tenant receiving the notice of a new monthly rental amount was required to accept the offer of a new lease by September 30, 1998 or October 1, 1998.

had been outstanding since February 24, 1999, Mr. Sanai had been sent a notice the unpaid rent could be reported, and Irvine Apartment Communities had attempted to collect the debt. On the form Mr. Sanai's name was misspelled "Cyrus Sonai." UDR reported the debt to consumer credit agencies based on this information. In reporting the debt to Experian, UDR utilized Experian's "Code 93," which Experian defined as an "account seriously past due and/or assigned to internal or external collections."

According to Mr. Sanai, in January 2000 he applied for and was denied a low-interest credit card from American Express due to information from a credit reporting agency that a debt had been sent to collection. Citibank subsequently declined Mr. Sanai's request to increase his existing credit line for the same reason. Mr. Sanai obtained a copy of his credit report from Experian, which listed an item from UDR stating a collection account was past due for unpaid rent at Promontory Point.

Mr. Sanai contacted Experian and disputed the information included in its report. Experian reviewed its file and contacted UDR, indicating it had received a consumer dispute and requesting that UDR confirm the identification of the individual owing the debt. UDR, after contacting The Irvine Company, confirmed that Mr. Sanai was the individual associated with the debt it had reported.

Mr. Sanai requested that UDR insert in its reports additional information about his dispute with the owner of Promontory Point pursuant to Civil Code section 1785.16. Mr. Sanai subsequently alleged UDR did not include in its reports sent to third parties the text he had requested.

In September 2000 Mr. Sanai filed a complaint against UDR and its owner, Harvey A. Saltz, alleging causes of action for slander, libel, intentional and negligent interference with prospective economic advantage, intentional and negligent infliction of emotional distress and violations of Civil Code section 1785.25 and FCRA. The complaint sought in excess of $5 million in damages.

2. *The Addition and Substitution of Defendants*

At a relatively early point in the litigation the trial court ruled Mr. Sanai's landlord was an indispensable party to the action. As a result, Mr. Sanai filed a first amended complaint and thereafter a second amended complaint naming various entities related to The Irvine Company as defendants, including Irvine Apartment Communities, and added a cause of action for breach of a written lease agreement, the purported agreement to lease the apartment for 12 months at a monthly rental of $1,410 beginning October 1, 1989.[2] (See *Sanai v. Saltz* (2009) 170 Cal.App.4th 746, 754-755 (*Sanai 2009*).) The Irvine Company is alleged to be the ultimate legal successor and successor-in-interest to Irvine Apartment Communities and other Irvine entities purportedly liable to Mr. Sanai.

First Advantage Corporation was substituted for UDR in April 2005 in an appeal then pending before us based on Mr. Sanai's unopposed motion, which indicated UDR had been

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[2] UDR, as an assignee of Mr. Sanai's landlord, filed a cross-complaint to collect the disputed unpaid rent. Mr. Sanai made a statutory tender of the full amount sought by UDR, which UDR accepted. The cross-complaint was dismissed.

acquired by First Advantage the preceding year.[3] CoreLogic Information Resources, LLC is the successor-in-interest to First Advantage Corporation.

Mr. Saltz remained a defendant in the action throughout its lengthy history.[4]

3. *The Fifth Amended, Supplemental Complaint*

After multiple trips to this court, which have produced a published opinion (*Sanai 2009*, *supra*, 170 Cal.App.4th 746) and five unpublished opinions (March 21, 2002, B147392; June 28, 2005, B174924 & B170618 (*Sanai 2005*); Sept. 16, 2010, B219963; March 20, 2013, B232770 (*Sanai 2013*); & March 16, 2015, B253432 (*Sanai 2015*)), on October 6, 2015 Mr. Sanai filed a fifth amended, supplemental complaint. As modified by the trial court in connection with granting leave to file the pleading, Mr. Sanai's operative complaint alleges three causes of action against all defendants: violation of Civil Code section 1785.25,

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[3] Although First Advantage Corporation did not oppose Mr. Sanai's motion, it subsequently argued in the trial court it was not properly named a defendant in the litigation as the successor to UDR. Rather, First Advantage Corporation asserted it had acquired UDR stock and, as a shareholder, was a separate legal entity from UDR. According to First Advantage Corporation, UDR was merged into Saferent, Inc., subsequently renamed First Advantage Saferent, Inc., a subsidiary of First Advantage Corporation.

[4] After the trial court granted CoreLogic and The Irvine Company's motion for summary judgment, Mr. Sanai and Mr. Saltz, agreeing the court's reasoning would apply with equal force to Mr. Saltz, stipulated to entry of a judgment in Mr. Saltz's favor.

violation of 15 U.S.C. section 1681s-2(b) and violation of California's unfair competition law (Bus. & Prof. Code, § 17200 et seq.) based on repeated violations of the California Consumer Credit Reporting Agencies Act.

4. *The Motion for Summary Judgment*

CoreLogic and The Irvine Company answered the complaint on January 22, 2016 and two weeks later, on February 4, 2016, moved for summary judgment or, in the alternative, summary adjudication as to each of the three causes of action in the fifth amended, supplemental complaint. The hearing on the motion was set for April 19, 2016.

The summary judgment hearing date was continued to May 2, 2016 at Mr. Sanai's request, and he was authorized by the court to issue a subpoena to Experian. On April 19, 2016 Mr. Sanai filed an opposition to the motion for summary judgment and a request for continuance pursuant to Code of Civil Procedure section 437c, subdivision (i), arguing CoreLogic had produced only a small fraction of the discovery previously ordered by the court. As a result of this and subsequent applications based on CoreLogic and The Irvine Company's alleged failure to respond properly to outstanding discovery, Mr. Sanai obtained several further continuances of the hearing date for the summary judgment motion and the deadline for supplemental opposition papers, as well as the trial and discovery cutoff dates.[5] However,

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[5] The hearing on the summary judgment motion was continued three times, from April 19 to May 2, then to June 29, and finally to July 7, 2016. The discovery cutoff was continued from April 24, to May 24, 2016. The trial date was continued three times from May 23, to June 23, then to August 11, and finally to August 18, 2016. Mr. Sanai's deadline to file a

on June 9, 2016 the court denied Mr. Sanai's ex parte motion for a further continuance of those dates.

On June 23, 2016 Mr. Sanai filed a document entitled "Preliminary Opposition to Motion for Summary Judgment and Motion for Judgment on the Pleadings"[6] in which he again described the various ways in which CoreLogic and The Irvine Company had failed to comply with their discovery obligations, including withholding or destroying documents, and argued he could not meaningfully respond to the summary judgment motion until those discovery abuses had been cured. Mr. Sanai submitted his own declaration with the preliminary opposition (with no exhibits) directed to his charges of discovery abuse. No evidence or separate statement was proffered in opposition to the evidence submitted by CoreLogic and The Irvine Company in support of their summary judgment motion, and Mr. Sanai did not present any substantive legal arguments responding to the moving papers.

CoreLogic and The Irvine Company filed a reply memorandum, responding to the claims of discovery abuse and again addressing on the merits the grounds they had advanced to justify summary judgment.

The court provided a tentative ruling to the parties on July 7, 2016, granting summary judgment, as well as summary

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supplemental opposition to the summary judgment motion was continued to June 23, 2016. In its May 16, 2016 order continuing various dates, the court wrote and double underlined, "NO FURTHER CONTINUANCES."

[6] The motion for judgment on the pleadings referred to in the caption had been filed by Mr. Saltz and is not an issue in this appeal.

adjudication separately as to each cause of action. On July 12, 2016, after several additional continuances, the parties submitted on the tentative ruling without oral argument. The court adopted its tentative ruling and directed CoreLogic and The Irvine Company to prepare a proposed order and proposed judgment.

The court signed and filed the order granting the motion for summary judgment or, in the alternative, summary adjudication on August 4, 2016. With respect to the first cause of action, violation of Civil Code section 1785.25, subdivision (a), the court found as undisputed facts that Irvine Apartment Communities had requested UDR report the debt it claimed Mr. Sanai owed by completing a form on which it confirmed it had attempted to collect the debt. UDR reported the debt according to the information provided and designated the account type to Experian as Code 93, the proper code type for a past due debt as to which internal collection efforts had been made. The court further found as undisputed that UDR did not report to any credit bureau that the debt had been assigned to an external collection agency. Accordingly, UDR did not furnish any information it knew or should have known to be incomplete or inaccurate, an essential element of the alleged statutory violation; and neither CoreLogic nor The Irvine Company had any liability to Mr. Sanai on a theory of vicarious or successor liability or conspiracy.

The second cause of action for violation of 15 U.S.C. § 1681s-2(b) requires the furnisher of credit information to conduct a reasonable investigation of the facts disputed by a consumer, but only if the consumer has notified the credit reporting agency of the dispute and the consumer reporting

agency then contacts the furnisher of the information. (See *Sanai 2009*, *supra*, 170 Cal.App.4th at pp. 763-764.)[7] Here, the court found as undisputed that UDR had received only one communication from Experian regarding Mr. Sanai, a computer printout reading, "Consumer States: Not Mine – Provide Complete ID." It was determined that the initial form from Irvine Apartment Communities had misspelled Mr. Sanai's name as "Sonai." UDR investigated the identification issue, confirmed Mr. Sanai was the individual associated with the reported debt and so advised Experian. UDR conducted a reasonable inquiry

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[7] As we explained in *Sanai 2009*, *supra*, 170 Cal.App.4th at pages 763 to 764, "With respect to furnishers of information to consumer credit reporting agencies, like UDR and First Advantage Corporation, section 623 of the FCRA imposes two general requirements: the duty to provide accurate information [citation] and the duty to investigate the accuracy of reported information upon receiving notice of a dispute [citation]. To trigger the latter set of duties, however, notice to the furnisher of information must be given pursuant to section 611(a)(2) of the FCRA [citation], which requires a consumer reporting agency to reinvestigate the current accuracy of information in its files after being notified by the consumer of a dispute and to notify the person who furnished it with the information about the dispute. That is, to activate the duties imposed by section 623(b) of the FCRA, notice of the dispute must come to the furnisher of the information (UDR) from the reporting agency (Experian), not directly from the consumer (Mr. Sanai) himself."

The duty of the furnisher of credit information to provide accurate information concerning an individual's credit status and to correct inaccurate information when notified by the consumer is not enforceable in a private action in state court. (*Sanai 2009*, *supra*, 170 Cal.App.4th at p. 765.)

and satisfied its obligations under FCRA. Accordingly, neither CoreLogic nor The Irvine Company had any liability to Mr. Sanai on a theory of vicarious or successor liability or conspiracy.

As to the third cause of action, because the allegations of unfair competition permitted by the court were based solely on purported violations of the California Consumer Credit Reporting Agencies Act (Civ. Code, § 1785.25, subd. (a)), CoreLogic and The Irvine Company's motion was properly granted as to this cause of action for the reasons that supported granting the motion as to the first cause of action.[8]

The court's August 4, 2016 order also addressed Mr. Sanai's final ex parte request to continue the summary judgment hearing based on his claim CoreLogic and The Irvine Company had deliberately withheld or spoliated documents, which it had denied on June 9, 2016. The court found Mr. Sanai had failed to establish how the discovery sought was essential to opposing the motion or why he needed additional time, despite diligence, to conduct that discovery.

5. *The Motion for New Trial*

Mr. Sanai filed a motion for new trial. The court denied the motion on October 5, 2016, ruling that Mr. Sanai had failed to comply with the mandatory notice and service requirements of Code of Civil Procedure section 659a and California Rules of Court, rule 3.1600(a) and rejecting his contention that the court had committed prejudicial error in a prior discovery ruling and in denying leave to file an amended complaint that included an

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[8] The court identified Mr. Sanai's failure to file a separate statement as an alternate ground for granting summary judgment.

unfair competition cause of action based on violations of FRCA and a request for injunctive relief under the unfair competition law on behalf of the general public—issues that Mr. Sanai revisits on appeal.

CONTENTIONS

Mr. Sanai contends he was improperly denied a fair opportunity to contest CoreLogic and The Irvine Company's motion for summary judgment, requiring reversal of the order granting that motion, because the trial court erred in precluding him from asserting in his fifth amended, supplemental complaint a demand for injunctive relief on behalf of the general public under the unfair competition law without qualifying as a class plaintiff, a cause of action under the unfair competition law based on violations of FRCA and a cause of action for extortion. In addition, he contends the court erred in ruling on his motion to compel discovery responses by granting the motion in part, rather than granting or denying it in its entirety, and in denying his final motion for a continuance of the hearing on the summary judgment motion based on CoreLogic and The Irvine Company's failure to cooperate in discovery. Finally, he contends the court erred in quashing discovery demands directed to several judges of the Los Angeles Superior Court and counsel for the superior court.[9]

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[9] Mr. Sanai also contends the trial court erred in denying his motion for a new trial but acknowledges "[t]here is no independent basis for overturning the motion for a new trial that was not argued in earlier phases of the litigation." Accordingly, we do not separately discuss this ground for appeal.

DISCUSSION

1. *Any Errors in the Trial Court's Rulings Limiting the Scope of the Operative Pleading Do Not Justify Reversal of the Order Granting Summary Judgment*

Following extensive pleading practice, Mr. Sanai moved to file a fifth amended, supplemental complaint, in part to include additional causes of action. The motion was denied as to the request to add a cause of action for extortion and conditionally granted as to the request to add a new cause of action for violation of California's unfair competition law. The court directed Mr. Sanai to file a proposed version of his new pleading consistent with that ruling and allowed defendants to assert objections to the proposed pleading. The court then ruled on the objections and attached to its ruling an interlineated version of the fifth amended, supplemental complaint, striking those portions of the allegations to which objections had been sustained. The pleading was deemed filed on October 6, 2015. Additional motions to strike were filed and granted in part.

As germane to this appeal Mr. Sanai objects to three of the rulings made by the court during this process: denial of leave to add a cause of action for extortion as time barred and subject to federal preemption; limitation on preemption grounds of the unfair competition cause of action to alleged violations of Civil Code section 1785.25, subdivision (a), excluding any claims based on violations of FCRA; and restriction of the request for injunctive relief under the unfair competition law to Mr. Sanai's claim as an individual. None of the challenged rulings constitutes reversible error.

a. *Extortion*

Mr. Sanai's original complaint contained several allegations regarding his interactions with Joe Tortorello, a representative of the apartment complex's owner. In paragraph 15 Mr. Sanai alleged he had offered to take the rent dispute to court or to a mutually acceptable arbitrator in a telephone conversation with Tortorello in October 1998, but Tortorello declined the offer. In paragraph 16 Mr. Sanai alleged that through October and November 1998 Tortorello continued to telephone him "to pressure him to accept the offer set forth in the Rescission Letter [a lease of six to 12 months at $2,165 per month]. Sanai refused, and proposed to have the matter fully and finally decided in court or arbitration." Finally, in paragraph 17 Mr. Sanai alleged Tortorello telephoned him again in February 1999 requesting back rent of $2,781. According to the original complaint, "Sanai refused to pay the amount, and stated that he had causes of action against Promontory Point arising from breach of the covenant of quiet enjoyment. Sanai told Tortorello that he was willing to drop these claims if Promontory Point dropped its claims. Tortorello threatened to take legal action against Sanai, which Sanai encouraged him to do. To date Promontory Point has taken no legal action against Sanai to enforce its claim of a debt, nor has Sanai been notified of assignment of the debt to any debt collection agency. "

Mr. Sanai's proposed fifth amended, supplemental complaint retained the allegations regarding his discussions with Tortorello from paragraphs 15 and 16 and the first portion of paragraph 17 of the original complaint, but modified the final two sentences in paragraph 17 to state, Tortorello threatened to take "legal action, which Sanai encouraged him to take. This was a

bluff, however, as Tortorello had already contacted legal counsel who advised him that he could easily lose the case. Thus Tortorello had no intention of taking any legal action to enforce the debt. He then threatened to injure Sanai in other means." Paragraph 18 of the proposed pleading continued with a new allegation, "Tortorello, on behalf of his employer, Irvine Apartment Management Company, instructed UDR to falsely report to consumer credit reporting agencies that a debt was in collection when no collection activities were ongoing or intended."

The modified allegations in paragraph 17 and the new allegation in paragraph 18 were the basis for Mr. Sanai's proposed new cause of action for extortion, which alleged, "Tortorello, the authorized agent of [The Irvine Company's] predecessor-in-interest, threatened to injure Sanai by taking illegal measures to compel Sanai to pay money to [The Irvine Company] and/or its subsidiaries. [The Irvine Company] then conspired with Saltz and UDR to carry out the threat." Mr. Sanai argued the extortion cause of action related back to his original complaint, filed in 2000, thus avoiding the bar of the statute of limitations, because it arose from his conversation with Tortorello "partially articulated in the original complaint."

The trial court did not abuse its discretion in denying leave to add this new cause of action. (See *Branick v. Downey Savings & Loan Assn.* (2006) 39 Cal.4th 235, 242 [leave to amend a complaint is entrusted to the sound discretion of the trial court]; *Board of Trustees v. Superior Court* (2007) 149 Cal.App.4th 1154, 1162-1163 [same]; see generally Code Civ. Proc., § 473, subd. (a)(1) [the court may in its discretion, after notice to the adverse party, allow upon any terms as may be just an amendment to any pleading].) To relate back to the original

complaint as to named defendants, an amended complaint must be based on the same general set of facts as the original complaint, seek recovery for the same injuries and refer to the same incident. (See *Barrington v. A.H. Robins Co.* (1985) 39 Cal.3d 146, 151 ["[a]n amended complaint relates back to [a timely filed] original complaint, and thus avoids [the bar of the] statute of limitations . . . if it: (1) rests on the same general set of facts as the original complaint; and (2) refers to the same accident and same injuries as the original complaint"]; *Davaloo v. State Farm Ins. Co.* (2005) 135 Cal.App.4th 409, 415 [same].) "'[I]t is the sameness of the facts rather than the rights or obligations arising from those facts that is determinative'" whether an amendment sought after the statute of limitations has run relates back to the date of the original complaint. (*Amaral v. Cintas Corp. No. 2* (2008) 163 Cal.App.4th 1157, 1199.) The proposed extortion cause of action fails this test.

"Extortion is the obtaining of property or other consideration from another, with his or her consent, . . . induced by a wrongful use of force or fear . . . ." (Pen. Code, § 518; see *Flatley v. Mauro* (2006) 39 Cal.4th 299, 326; see also *Mendoza v. Hamzeh* (2013) 215 Cal.App.4th 799, 805 ["The threat to report a crime may constitute extortion even if the victim did in fact commit a crime. The threat to report a crime may in and of itself be legal. But when the threat to report a crime is coupled with a demand for money, the threat becomes illegal, regardless of whether the victim in fact owed the money demanded."].) The element of fear in an extortion claim may include a threat "[t]o do an unlawful injury to the person or property of the individual threatened . . . ." (Pen. Code, § 519, subd. 1.)

Although Mr. Sanai's original complaint alleged Tortorello had "threatened to take legal action against Sanai" with respect to the disputed claim of unpaid rent in February 1999, a prospect Mr. Sanai said he welcomed and, indeed, had himself suggested several months earlier, the initial pleading was devoid of any claim that during the conversation Tortorello had attempted to obtain property from Mr. Sanai through a wrongful use of force or fear, including by a threat "to injure Sanai by taking illegal measures to compel Sanai to pay money" to Tortorello's employer, as alleged in the proposed fifth amended, supplemental complaint. Nor did Mr. Sanai allege Tortorello thereafter conspired with Mr. Saltz to carry out that threat.

Mr. Sanai's insistence that Tortorello's allegedly extortionate threats occurred during the February 1999 conversation briefly described in the original complaint does not mean the cause of action for extortion is based on the "same operative facts—i.e., the same misconduct and the same injury—previously complained of." (*Amaral v. Cintas Corp. No. 2*, *supra*, 163 Cal.App.4th at p. 1200.) To the contrary, the misconduct alleged is far different from the bases for the six tort claims (slander, libel, intentional and negligent interference with prospective economic advantage and intentional and negligence infliction of emotional distress) initially alleged and, although the injuries claimed (financial losses and impairment of credit) may be identical, the "offending instrumentality" of the tort—the threat to do an unlawful injury—is new. (Cf. *Barrington v. A.H. Robins Co.*, *supra*, 39 Cal.3d at p. 151.) In sum, denial of leave to amend to add the cause of action for extortion was well within the trial court's broad discretion.

b. *Unfair competition: claims based on FCRA*

i. *15 U.S.C. § 1681-2(b)*

The proposed fifth amended, supplemental complaint alleged, as a new cause of action, that UDR and First Advantage Corporation, CoreLogic's predecessors, violated California's unfair competition law by violating FCRA and the California Consumer Credit Reporting Agencies Act. The proposed pleading further alleged The Irvine Company employed UDR and First Advantage Corporation to engage in those illegal practices.

The trial court granted leave to add this cause of action only to the extent it was based on unlawful conduct in violation of Civil Code section 1785.25, subdivision (a). Allegations of violations of FCRA, the court ruled, as well as allegations of unfair or fraudulent conduct, were preempted by FCRA. Citing language from our decision in *Sanai 2009*, *supra*, 170 Cal.App.4th 746, Mr. Sanai argues the trial court's FCRA preemption analysis was erroneous because the equitable relief authorized under the unfair competition law does not add to or modify the requirements imposed by federal law, but simply increases the ability of a court to enjoin practices made unlawful by federal law. (See *Sanai 2009*, at p. 778 ["federal law preempting state statutory or common law requirements different from, or in addition to, the requirements imposed by federal law 'does not prevent a State from providing a damages remedy for claims premised on a violation of [federal] regulations; the state duties in such a case "parallel," rather than add to, federal requirements'"].)

We agree the trial court erred in denying Mr. Sanai leave to base his unfair competition claim on the allegedly unlawful practice by UDR and First Advantage Corporation of violating

their duties under 15 U.S.C. § 1681s-2(b) to investigate the accuracy of information they had reported to a consumer credit reporting agency upon receiving notice of a dispute.[10] Violations of this provision may be directly enforced in a private damage action by an injured consumer (see *Sanai 2009*, *supra*, 170 Cal.App.4th at p. 765), as Mr. Sanai sought to do in this litigation. Permitting him also to pursue an unfair competition action for equitable relief by "borrowing" this narrow provision of FCRA as a basis for an unfair competition claim under Business and Professions Code section 17200 does not add any requirement or prohibition to federal law and thus does not run afoul of FCRA's preemption provision. (See *Cel-Tech Communications, Inc. v. Los Angeles Cellular Telephone Co.* (1999) 20 Cal.4th 163, 180 ["[b]y proscribing 'any unlawful' business practice, 'section 17200 "borrows" violations of other laws and treats them as unlawful practices' that the unfair competition law makes independently actionable"]; see generally 15 U.S.C. § 1681t(b)(1)(F) ["[n]o requirement or prohibition may be imposed under the laws of any State—with respect to any subject matter regulated under—section 623 [15 U.S.C. § 1681s-2], relating to the responsibilities of persons who furnish information to consumer reporting agencies . . . ."].)

The trial court's error, however, was harmless. (Code Civ. Proc., § 475 ["[n]o judgment, decision, or decree shall be reversed

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[10] As we explained in *Sanai 2009*, *supra*, 170 Cal.App.4th at page 764, to trigger the duty to investigate imposed by 15 U.S.C. § 1681s-2(b), notice to the furnisher of information of a dispute must be given by the credit reporting agency, not the consumer. (Accord, *Gorman v. Wolpoff & Abramson, LLP* (9th Cir. 2009) 584 F.3d 1147, 1154.)

or affected by reason of any error, ruling, instruction, or defect, unless it shall appear from the record that such error, ruling, instruction, or defect was prejudicial, . . . that a different result would have been probable if such error, ruling, instruction, or defect had not occurred or existed"]; see generally *Pool v. City of Oakland* (1986) 42 Cal.3d 1051, 1069.) The presence of this additional claim would not have altered the trial court's ruling on CoreLogic and The Irvine Company's motion for summary judgment. The undisputed facts supporting summary judgment on Mr. Sanai's cause of action against the two companies for violating 15 U.S.C. § 1681s-2(b) would be fully applicable to defeat an unfair competition claim that borrowed that provision's definition of unlawful conduct.

Mr. Sanai's contention the court's preemption ruling was prejudicial because it improperly narrowed the scope of permissible discovery is equally unavailing. Mr. Sanai does not explain, nor can we fathom, how adding an unlawful business practice claim based on the identical conduct already at issue in the lawsuit would justify discovery not otherwise available to him. (See *Sviridov v. City of San Diego* (2017) 14 Cal.App.5th 514, 521 [failure to support point with reasoned argument forfeits the argument]; *Tichinin v. City of Morgan Hill* (2009) 177 Cal.App.4th 1049, 1084, fn. 16 [same].)

ii. *15 U.S.C. § 1681s-2(a)*

To the extent Mr. Sanai proposed basing his unfair competition action on alleged violations of 15 U.S.C. § 1681s-2(a), which imposes a duty on furnishers of credit information to provide accurate information to consumer credit reporting agencies and thereafter to correct any inaccuracies they discover in information reported, the trial court's denial of leave to amend

was proper. Enforcement of the duties enumerated in this section of FCRA is expressly reserved to federal agencies and specified state officials. (15 U.S.C. § 1681s-2(d); see *Sanai 2009*, *supra*, 170 Cal.App.4th at p. 765.) Permitting an unfair competition claim based on alleged violations of those duties would be fundamentally inconsistent with Congress's decision to preclude a private cause of action for consumers under this provision, as well as its express preemption of state statutory and common law claims relating to consumer credit reporting excepting only Civil Code section 1785.25, subdivision (a). (See *Rose v. Bank of America, N.A.* (2013) 57 Cal.4th 390, 397 ["by borrowing requirements from other statutes, the UCL does not serve as a mere enforcement mechanism. It provides its own distinct and limited equitable remedies for unlawful business practices, using other laws only to define what is 'unlawful.'"].)

c. *Unfair competition: the scope of injunctive relief*

In *McGill v. Citibank, N.A.* (2017) 2 Cal.5th 945 (*McGill*) the Supreme Court held a provision in a predispute arbitration agreement that waives the right to seek public injunctive relief, that is, injunctive relief that has the primary purpose and effect of prohibiting unlawful acts that threaten future injury to the general public, is contrary to California public policy and unenforceable under California law. (*Id.* at pp. 951-952.) In the course of its analysis the *McGill* Court first noted, "'[T]he primary form of relief available under the [unfair competition law] to protect consumers from unfair business practices is an injunction.'" (*Id.* at p. 954.) The Court then concluded Proposition 64's amendments to the unfair competition law in 2004—providing that an individual may pursue a representative claim or seek relief on behalf of others only if he or she complies

with the requirements for a class action as set forth in Code of Civil Procedure section 382—did not eliminate the ability of private plaintiffs who had suffered injury in fact and had lost money or property as a result of a violation of Business and Professions Code section 17203 to seek public injunctive relief under the unfair competition law: "A person who meets these requirements is 'fil[ing]' the 'lawsuit[ ]' or 'action[ ]' on his or her own behalf, not 'on behalf of the general public.' [Citations.] This remains true even if the person seeks, as one of the requested remedies, injunctive relief 'the primary purpose and effect of' which is 'to prohibit and enjoin conduct that is injurious to the general public.'" (*McGill*, at p. 959; see also *id.* at p. 960 [the requirement that the action be brought as a class action "has never been imposed with regard to requests to enjoin future wrongful business practices that will injure the public, and we find nothing in the ballot materials for Proposition 64 suggesting an intent to link or restrict such relief to the class action context"].)

As Mr. Sanai argues, the Supreme Court's decision in *McGill* that public injunctive relief remains a remedy available to private plaintiffs under the unfair competition law contradicts that portion of the trial court's order granting in part the motion to strike that suggested he was entitled in his unfair competition cause of action only to seek "private injunctive relief—i.e., relief that primarily 'resolve[s] a private dispute' between the parties" (*McGill, supra*, 2 Cal.5th at p. 955), rather than an injunction that more broadly prohibited CoreLogic and The Irvine Company from engaging in the allegedly unlawful conduct at issue in his lawsuit. But Mr. Sanai vastly overstates the extent of the inconsistency between the trial court's ruling and *McGill*.

The trial court correctly ruled, because Mr. Sanai had not complied with the requirements of Code of Civil Procedure section 382 for maintaining a class action, the allegations he was pursuing a representative claim or pursuing a remedy on behalf of all consumers subject to tenant screening services were improper. (See *Arias v. Superior Court* (2009) 46 Cal.4th 969, 980 ["we construe the statement in section 17203, as amended by Proposition 64, that a private party may pursue a representative action under the unfair competition law only if the party 'complies with Section 382 of the Code of Civil Procedure' to mean that such an action must meet the requirements for a class action"]; accord, *In re Tobacco II Cases* (2009) 46 Cal.4th 298, 313-314.) Thus, contrary to his contention on appeal, even if the trial court had anticipated the *McGill* decision, which came 16 months after its ruling on the renewed motions to strike, Mr. Sanai would not have been entitled to broad discovery canvassing the entire range of possible illegal credit reporting practices engaged in by CoreLogic and The Irvine Company from 2000 to the present, the prejudice Mr. Sanai claims resulted from the trial court's erroneous ruling. (See *Espinoza v. Shiomoto* (2017) 10 Cal.App.5th 85, 100 [prejudicial error must be affirmatively shown to warrant reversal].) Nor would the availability of broader injunctive relief have altered the result of the summary judgment motion since the court ruled, based on undisputed facts unchallenged on appeal, that no violation of the unfair competition law had occurred.

2. *The Trial Court Did Not Abuse Its Discretion in Ruling on Mr. Sanai's Motion To Compel Discovery Responses*

As we recounted in *Sanai 2009*, *supra*, 170 Cal.App.4th at pages 760 to 761, in October 2005, following our reversal of the

orders before us in *Sanai 2005* and remand of the case to the trial court, Mr. Sanai served a request for the production of documents on First Advantage Corporation and in January 2006, after First Advantage Corporation failed to respond, a motion to compel responses. In February 2006 First Advantage Corporation moved for a protective order to stay all discovery pending the court's determination of a dispositive motion it represented it was about to file. Mr. Sanai opposed the motion, arguing First Advantage Corporation had waived its objections to his discovery demand by failing to respond in a timely fashion and the request for a protective order was untimely. The trial court found the motion for a protective order "was both a timely and promptly filed response," granted the motion and ordered all discovery stayed pending resolution of First Advantage Corporations' potentially case-dispositive motion.

The trial court eventually granted the motions for judgment on the pleadings filed by First Advantage Corporation and Mr. Saltz and entered judgment in their favor. We reversed the judgment in part and affirmed it in part in *Sanai 2009*, *supra*, 170 Cal.App.4th 746. With respect to the stayed discovery we stated, "[W]e do not construe the trial court's May 12, 2006 order granting First Advantage Corporation's motion for a protective order staying discovery pending determination of potentially case-dispositive motions as including a ruling on Mr. Sanai's claim that First Advantage Corporation had waived any objections to his discovery demands by failing to respond in a timely fashion. That issue, to the extent it survives on remand, should be decided by the trial court in the first instance." (*Id.* at p. 783, fn. 26.)

On March 18, 2016 Mr. Sanai moved pursuant to Code of Civil Procedure section 2031.300, subdivision (b), to compel First Advantage Corporation (and any successor entity) to respond to his October 2005 request to produce documents.[11] CoreLogic and The Irvine Company filed opposition papers on March 30, 2016, arguing, contrary to our statement in footnote 26 in *Sanai 2009*, that the trial court in 2006 had found First Advantage Corporation had not waived its right to object to Mr. Sanai's request for production of documents because its motion for a protective order constituted a timely and promptly filed response to the discovery demand. In addition, CoreLogic and The Irvine Company argued our reversal in part of the judgment in *Sanai 2009* "reset the discovery clocks upon remand," and Mr. Sanai needed to serve a new request for production of documents if he wanted responses. Finally, CoreLogic and The Irvine Company noted that most of the causes of action Mr. Sanai had alleged in 2006 were no longer part of the case following the 2006 judgment and our decision in *Sanai 2009*, so many of the document demands were now outside the scope of proper discovery.

Apparently heeding our observation in *Sanai 2013* that strong oversight by the trial court was necessary to finally put an end to the parties' gamesmanship and procedural sniping, rather

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[11] A substantial portion of the seven-year delay following issuance of our remittitur in *Sanai 2009* is attributable to stays in effect as a consequence of the defendants' unsuccessful litigation of a special motion to strike (Code Civ. Proc., § 425.16) in the trial court and on appeal (see *Sanai 2010*) and their similarly unsuccessful effort to have Mr. Sanai declared a vexatious litigant (see *Sanai 2013*).

than accept either side's all-or-nothing approach to the motion to compel responses, the trial court granted the motion in part, ordering production of documents responsive to 21 of Mr. Sanai's requests, limited to those documents from January 1, 1993 to September 7, 2000 that related to the allegations in the current operative complaint, as well as documents dealing with requests made by Mr. Sanai to review his file in 2001, 2005 and 2009 and documents relating to any report made by UDR or First Advantage Corporation regarding the dispute with Mr. Sanai between 2002 and 2005. To the extent objections had been asserted in First Advantage Corporation's February 2006 motion for a protective order, those objections were preserved. All other objections were waived. The remaining requests for production were denied.

Mr. Sanai now argues the trial court's discovery order, which neither granted his request to order full production of all documents he sought nor accepted the position of CoreLogic and The Irvine Company that Mr. Sanai was required to serve a new request for production of documents following the remand in *Sanai 2009*, was void or voidable as an act in excess of its jurisdiction because not authorized by any provision of California's Civil Discovery Act. In other circumstances we might question the trial court's departure from the procedures prescribed in the discovery provisions of the Code of Civil Procedure, but not here.

Discovery automatically reopens following the reversal of a judgment on appeal and remand for a new trial. (*Fairmont Ins. Co. v. Superior Court* (2000) 22 Cal.4th 245, 250; *Beverly Hospital v. Superior Court* (1993) 19 Cal.App.4th 1289, 1291.) Applying this well-established rule in *Hirano v. Hirano* (2007)

158 Cal.App.4th 1, our colleagues in Division Eight of this court held a party's failure to comply with the opposing party's demand to exchange expert witness information prior to entry of a dismissal for failure to prosecute did not preclude that party from introducing expert testimony following a reversal and remand for trial because neither party had made a new demand for exchange of expert trial witness information. The court explained, "When the prior judgment was reversed, the matter remanded and a new initial trial date set, discovery automatically reopened. [Citations.] Because neither party made a [Code of Civil Procedure] section 2034.210 demand for exchange of expert witness information in connection with the new initial trial date, neither was required to comply with section 2034.260. [Citation.] Accordingly, the trial court erred in excluding appellant's expert witness evidence on the grounds that appellant failed to make a timely exchange of expert witness information." (*Hirano*, at p. 8.)

Under the reasoning of *Hirano*, it would not have been an abuse of discretion for the trial court to have simply denied Mr. Sanai's motion to compel responses to his 2005 discovery demand following our decision in *Sanai 2009*, requiring him to serve a new request to produce documents that conformed to the allegations of the fifth amended, supplemental complaint as it existed in 2016. The court's decision not to do so, but instead to move the case forward by ordering CoreLogic and The Irvine Company to produce, with only limited objections, those categories of documents that remained relevant to the litigation was well within its broad authority to manage discovery (see *City of Los Angeles v. Superior Court* (2017) 9 Cal.App.5th 272, 282 ["'management of discovery lies within the sound discretion of the trial court'"]; see generally *Greyhound Corp. v. Superior Court*

(1961) 56 Cal.2d 355, 380), as well as its power "[t]o provide for the orderly conduct of proceedings before it." (Code Civ. Proc., § 128, subd. (a)(3).)

3. *The Trial Court Did Not Abuse Its Discretion in Denying Mr. Sanai's Final Request To Continue the Hearing on the Summary Judgment Motion*

As discussed, the hearing on CoreLogic and The Irvine Company's motion for summary judgment was originally scheduled for April 19, 2016, 75 days after the motion was filed and personally served. That hearing date was continued to May 2, 2016 at Mr. Sanai's request, and the court authorized him to serve a deposition subpoena on Experian. In mid-April Mr. Sanai again moved to continue the hearing date based on CoreLogic and The Irvine Company's failure to adequately respond to outstanding discovery. The court continued the hearing date to June 29, 2016. Because of calendar conflicts, the parties jointly requested a further continuance of the hearing to July 7, 2016. The court agreed but stated in its order that no further continuances would be allowed.

Notwithstanding the court's admonition that no further continuances would be granted, on June 9, 2016 Mr. Sanai moved ex parte for, among other things, a continuance of the summary judgment hearing date based on CoreLogic's failure to comply with the court's April 11, 2016 order compelling production of certain documents identified in his October 2005 discovery demand.[12] Mr. Sanai asserted that CoreLogic had withheld most,

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[12] The ex parte motion sought "to Shorten Time and/or set Scheduling for Motions to Compel and for Terminating Sanctions, Deny Summary Judgment Motion or Further continue Hearing

if not all, of the key documents necessary to adjudicate his claims. On appeal Mr. Sanai contends denial of this request was reversible error.

We review a court's denial of a request to continue the hearing on a summary judgment motion to permit additional discovery for abuse of discretion. (*Hamilton v. Orange County Sheriff's Dept.* (2017) 8 Cal.App.5th 759, 764; *Jade Fashion & Co., Inc. v. Harkham Industries, Inc.* (2014) 229 Cal.App.4th 635, 655.) "[I]n deciding whether to continue a summary judgment to permit additional discovery courts consider various factors, including (1) how long the case has been pending; (2) how long the requesting party had to oppose the motion; (3) whether the continuance motion could have been made earlier; (4) the proximity of the trial date or the 30-day discovery cutoff before trial; (5) any prior continuances for the same reason; and (6) the question whether the evidence sought is truly essential to the motion." (*Chavez v. 24 Hour Fitness USA, Inc.* (2015) 238 Cal.App.4th 632, 644; see Code Civ. Proc., § 437c, subd. (h) [if party opposing summary judgment submits affidavits showing "that facts essential to justify opposition may exist but cannot, for reasons stated, be presented, the court shall deny the motion, order a continuance to permit affidavits to be obtained or discovery to be had, or make any other order as may be just"].)

Although Mr. Sanai's ex parte motion described five categories of documents he claimed had been improperly withheld from CoreLogic's discovery responses, his moving papers did not identify any facts essential to opposing summary

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and Opposition date Thereof, Continue Discovery Cut-off as to Plaintiff, and if Necessary Continue Trial Date."

judgment he believed the additional discovery would disclose. Moreover, the motion, the fourth request to continue the hearing date, was filed after the continued discovery cutoff date of May 24, 2016 and only two months before the rescheduled trial date. Under these circumstances, and given the protracted history of this case, the trial court acted within its discretion in refusing another continuance. (See *Jade Fashion & Co., Inc. v. Harkham Industries, Inc.*, *supra*, 229 Cal.App.4th at p. 655 ["the trial court acted within its discretion in denying the request for a continuance because Harkham Industries failed to show how facts essential to its opposition could be obtained by deposing Jade Fashion's attorney"]; *Cooksey v. Alexakis* (2004) 123 Cal.App.4th 246, 255 [trial court had discretion to deny request for continuance of summary judgment hearing based on appellant's failure to explain how the outstanding discovery was necessary to oppose the motion]; see also *Ace American Ins. Co. v. Walker* (2004) 121 Cal.App.4th 1017, 1024 ["[t]he trial court need not grant a continuance where the proposed discovery is focused on matters beyond the scope of the dispositive issues framed by the pleadings"].)

4. *The Order Quashing Deposition Subpoenas Directed to Judicial Officers and Court Counsel Did Not Deny Mr. Sanai His Due Process Rights*

a. *The background: Mr. Sanai's efforts to disqualify the bench officers assigned to preside in his case*

Mr. Sanai has for years asserted the existence of an ongoing conspiracy among Frederick Bennett, counsel for the Los Angeles Superior Court; former Judge (now Justice) Elizabeth Grimes, who had presided over early phases of this lawsuit; Judge Terry Green, who was assigned to the case after Judge Grimes; Judge Kevin Brazile, who presided during the

proceedings at issue in *Sanai 2013* and *Sanai 2015*; more recently Judge Dalila Corral Lyons, who replaced Judge Brazile and conducted the proceedings at issue in this appeal; Michael Saltz, former counsel for UDR; and others.[13] Mr. Sanai has repeatedly, and unsuccessfully, sought to disqualify not only the individual judge then assigned to preside over his case but also the entire Los Angeles Superior Court. In *Sanai 2015* we rejected the argument that, as a result of the alleged conspiracy and, in particular, Judge Brazile's involvement in the case, Mr. Sanai's due process right to an impartial judge had been violated.

On November 10, 2014 Mr. Sanai again sought to disqualify Judge Brazile under Code of Civil Procedure sections 170.1, 170.3, 170.6 and the due process clause of the Fourteenth Amendment based, in part, on events subsequent to those at issue in *Sanai 2015*. His statement of disqualification was supported by a 20-page declaration. On November 17, 2014 Judge Brazile signed, and on November 18, 2014 the court served, an order striking the statement of disqualification, finding that on its face it disclosed no legal grounds for disqualification and that it was untimely and repetitive.

On December 3, 2014 Mr. Sanai petitioned this court for a writ of mandate, challenging the order striking his statement of disqualification (*Sanai v. Los Angeles Superior Court*, B260427). On December 5, 2014 we requested opposition papers from

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[13] As we explained in *Sanai 2015*, "The conspiracy was allegedly designed, at least in part, to discredit Mr. Sanai in order to protect the reputation of Judge Grimes and purportedly has included improper ex parte communications, subornation of perjury by court staff, destruction of documents and falsification of proofs of service of orders."

respondent Los Angeles Superior Court and the real parties in interest and stayed all trial court proceedings before Judge Brazile pending further order of this court.

On February 4, 2015 we issued an alternative writ of mandate, directing the superior court either to vacate its order striking the statement of disqualification "and thereafter proceed in accordance with the provisions of Code of Civil Procedure section 170.3, subdivision (c)(2-(6)," or to show cause why this court should not require such a new order to be entered. On February 25, 2015, however, we discharged the alternative writ and dismissed Mr. Sanai's petition as moot because the underlying litigation had been assigned to a judge other than Judge Brazile.

Prior to our order discharging the alternative writ, Mr. Sanai sought to disqualify Judge Lyons, who had replaced Judge Brazile in Department 20 following Judge Brazile's transfer to Department 1, as well as all other judges of the Los Angeles Superior Court. In his statement of disqualification, filed February 10, 2015, Mr. Sanai argued, among other points, that the reassignments of Judges Brazile and Lyons violated our December 5, 2014 stay order. Judge Lyons struck the statement of disqualification on February 19, 2015. Mr. Sanai served another statement of disqualification on March 9, 2015, which Judge Lyons struck on March 11, 2015. Mr. Sanai petitioned for a writ of mandate to review that order on March 27, 2015. We summarily denied the petition on April 1, 2015. (*Sanai v. Los Angeles Superior Court*, B263002.)[14]

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[14] On June 21, 2016 Mr. Sanai filed yet another statement of disqualification directed to Judge Lyons and the entire

b. *The deposition subpoenas and the order quashing them*

Following his unsuccessful attempts to disqualify Judge Lyons, on March 13, 2015 Mr. Sanai served court counsel with a deposition subpoena for the personal appearance of Judge Lyons. On March 19, 2015 he served court counsel with four additional deposition subpoenas directed to Judge Brazile, Judge Terry Green, Judge Lesley Green and court counsel Bennett. On March 20, 2015 the court issued an order to show cause indicating its intent to quash the subpoenas. Mr. Sanai filed a response to the order to show cause on April 3, 2015.

In an order filed April 17, 2015 the trial court quashed the five subpoenas, ruling, "The issue of disqualification of Judge [Terry] Green and Judge Brazile has been settled and, moreover, is irrelevant to the issue of whether this court may proceed to hear the case now that the matter has been reassigned to Judge Dalila Corral Lyons. The issue of disqualification of Judge Lyons has been resolved through the striking of statements of disqualification against her, and the denial by the Court of Appeal of Plaintiff's petitions for writ review. . . . [¶] . . . Plaintiff seeks to engage in discovery to collaterally attack the court's prior orders and to raise disqualification issues that have been finally decided against him. . . . [¶] Plaintiff having failed

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Los Angeles Superior Court bench. Judge Lyons struck the statement on June 27, 2016. On July 7, 2016, the date set for the hearing on CoreLogic and The Irvine Company's motion for summary judgment, Mr. Sanai again sought to disqualify Judge Lyons. Judge Lyons struck that statement of disqualification on July 7, 2016. We summarily denied Mr. Sanai's writ petition seeking review of those orders on July 14, 2016. (*Sanai v. Los Angeles Superior Court*, B276055.)

to demonstrate any reasonable grounds supporting the issuance of deposition subpoenas, the court finds good cause to quash all subpoenas in their entirety."

c. *The order quashing subpoenas was an appropriate exercise of judicial discretion*

In contending he has a due process right to depose the judges named in his subpoena, Mr. Sanai asserts, "If a party can make a showing of facts that would lead a reasonable person to believe that judicial misconduct has occurred and is being covered up or that the litigant is being punished for blowing the whistle on it, then discovery should be available as a matter of right so that the judiciary can retain public confidence through transparency." Mr. Sanai's argument suffers from several fatal flaws.

First, contrary to Mr. Sanai's insistence in his brief in this case and on multiple occasions in prior writ petitions, this court did not disqualify Judge Brazile by our February 4, 2014 order issuing an alternative writ, nor did we accept as established that Judge Brazile had acted in concert with court counsel Bennett to enter a fraudulent court order. Rather, as discussed, we directed respondent superior court either to enter a new order vacating the order striking the statement of disqualification and thereafter to proceed in accordance with Code of Civil Procedure section 170.3, subdivision (c)(2) through (6), or to show cause why that was not the appropriate disposition of the matter. Even if the superior court had proceeded under the first alternative, without conceding his disqualification, Judge Brazile could have requested another judge agreed upon by the parties to sit and act in his place (Code Civ. Proc., § 170.3, subd. (c)(2)) or the issue of

disqualification could have been referred to another judge to be heard and determined (Code Civ. Proc., § 170.3, subd. (c)(5)).

Second, the United States Supreme Court's decision in *Williams v. Pennsylvania* (2016) ___ U.S. ___ [136 S.Ct. 1899, 195 L.Ed.2d 132], which Mr. Sanai argues effectively overruled the case law upon which this court relied in rejecting his due process claim in *Sanai 2015* and supports his right to discovery from the superior court judges identified in his deposition subpoenas, has no direct bearing on this case. In *Williams* the Supreme Court held a Pennsylvania Supreme Court justice who was the district attorney at the time of a prisoner's trial and who had authorized the trial prosecutor to seek the death penalty had sufficient personal involvement in the case that he was required to recuse himself from the appeal of a postconviction grant of relief to the prisoner and his failure to do so violated the prisoner's right to due process. (*Id.* at p. ___ [136 S.Ct. at p. 1908].) The Court then held the participation of one disqualified jurist as a member of a multimember state supreme court constituted structural error even if the justice in question did not cast a deciding vote. (*Id.* at ___ [136 S.Ct. at p. 1909].) But the collaborative nature of decisionmaking by a multi-justice appellate court at issue in *Williams* is far different from the single judge rulings in a trial court, notwithstanding that for some purposes the Los Angeles Superior Court is considered "one court" with several hundred members. Thus, even if, contrary to all the rulings in the case, one of the judges who previously presided in this litigation were actually disqualified within the meaning of Code of Civil Procedure section 170.1, that fact would not require the disqualification of Judge Lyons, who heard the summary judgment motion at issue on appeal.

Third, and perhaps most importantly, as the trial court ruled, the issue of Judge Brazile's and Judge Lyons's disqualification based on the events asserted by Mr. Sanai in his various statements of disqualification has been finally resolved. This court's summary denial of the petitions for writ of mandate to review the rulings on those disqualification motions "is on the merits and constitutes law of the case." (*Frisk v. Superior Court* (2011) 200 Cal.App.4th 402, 415; see *Leone v. Medical Board* (2000) 22 Cal.4th 660, 670 [when a writ petition constitutes the exclusive means of obtaining appellate review of an order, "an appellate court must judge the petition on its procedural and substantive merits, and a summary denial of the petition is necessarily on the merits"].)

In short, Mr. Sanai has failed to present facts that would lead a reasonable person to believe any judicial misconduct has occurred, let alone wrongdoing that could have potentially affected his case in the procedural posture presented by this appeal. The trial court's finding there were no reasonable grounds to support issuance of the deposition subpoenas was well founded. No due process violation occurred.

DISPOSITION

The judgment is affirmed. Corelogic and The Irvine Company are to recover their costs on appeal.

PERLUSS, P. J.

We concur:

ZELON, J. SEGAL, J.