DEPARTMENT C20
Judge Erick Larsh

Law and Motion Calendar

Court Reporters: Official court reporters (i.e., court reporters employed by the Court) are **NOT** typically provided for law and motion matters in this department. If a party desires a record of a law and motion proceeding, it will be the party's responsibility to provide a court reporter. Parties must comply with the Court's policy on the use of privately retained court reporters which can be found at:

- Civil Court Reporter Pooling; and
- For additional information, please see the court's website at Court Reporter Interpreter Services for additional information regarding the availability of court reporters.

Tentative rulings: The court endeavors to post tentative rulings on the court's website in the morning, prior to the afternoon hearing. However, ongoing proceedings such as jury trials may prevent posting by that time. Tentative rulings may not be posted in every case. Please do not call the department for tentative rulings if tentative rulings have not been posted. The court will not entertain a request to continue a hearing or the filing of further documents once a tentative ruling has been posted.

Submitting on tentative rulings: If all counsel intend to submit on the tentative ruling and do not desire oral argument, please advise the Courtroom Clerk or Courtroom Attendant by calling (657) 622-5220. Please do not call the department unless all parties submit on the tentative ruling. If all sides submit on the tentative ruling and so advise the court, the tentative ruling shall become the court's final ruling and the prevailing party shall give notice of the ruling and prepare an order for the court's signature if appropriate under Cal. R. Ct. 3.1312.

Non-appearances: If nobody appears for the hearing and the court has not been notified that all parties submit on the tentative ruling, the court shall determine whether the matter is taken off calendar or the tentative ruling becomes the final ruling. The Court also might make a different order at the hearing. (*Lewis v. Fletcher Jones Motor Cars, Inc.* (2012) 205 Cal.App.4th 436, 442, fn. 1.)

APPEARANCES: Department C20 conducts non-evidentiary proceedings, such as law and motion, remotely, by Zoom videoconference pursuant to CCP §367.75 and Orange County Local Rule (OCLR) 375. All counsel and self-represented parties appearing for such hearings must check-in online through the Court's civil video appearance website at https://www.occourts.org/media-relations/civil.html prior to the commencement of their hearing. Once the online check-in is completed, participants will be prompted to join the courtroom's Zoom hearing session. Participants will initially be directed to a virtual waiting room pending the start of their specific video hearing. Check-in instructions and instructional video are available at https://www.occourts.org/media-relations/aci.html. The Court's "Appearance Procedures and Information--Civil Unlimited and Complex" ("Appearance Procedures") and "Guidelines for Remote Appearances" ("Guidelines") also available at

https://www.occourts.org/media-relations/aci.html will be strictly enforced. Parties preferring to appear in-person for law and motion hearings may do so pursuant to CCP §367.75 and OCLR 375.

PUBLIC ACCESS: The courtroom remains open for all evidentiary and non-evidentiary proceedings.

No filming, broadcasting, photography, or electronic recording is permitted of the video session pursuant to California Rules of Court, rule 1.150 and Orange County Superior Court rule 180.

TENTATIVE RULINGS

Date: May 2, 2024, 1:30 p.m.

#	Case Name	Tentative Ruling
1	**Best Finance Capital, Inc. vs. Equinox Mortgage, Inc.** **2022-01278549**	In reviewing the docket, all three defendants in the case jointly demurred to the entire FAC. [ROA 58] In the meet and confer declaration supporting the demurrer, defense counsel stated that plaintiff's counsel indicated he would file and serve a SAC but did not do so within the required timeframe (Defendants had to file the Demurrer by December 1, 2023, to be timely and Plaintiff did not attempt to file the SAC until December 22, 2023 @ 4:24 p.m. This filing of the SAC was rejected by the clerk's office because the Demurrer had already been filed.) [ROA 59; (Plaintiff would be required to file a motion for leave to amend, as Plaintiff can only file an amended pleading once as a matter of course without court order).] In opposition, Plaintiff argues that the demurrer to the FAC is moot because it agreed to file the SAC and filed it on December 22, 2023, but it was subsequently rejected because the demurrer was on file. [ROA 75 (the clerk's rejection notice indicated the SAC was rejected because leave was required [ROA 62])] Therefore, Demurrer granted to the FAC with 10 days leave to Amend, thus allowing the Plaintiff to refile the SAC. D. to give notice.
3	**Liu vs. Xiang** **2022-01250906**	Defendants Lin Yun Xiang, Robert Luo, Emilie Lee, Jin Luo, Element Catering Group LLC, Element Catering Group Inc., Element Catering L, LLC, Element Catering Love, LLC, Element Catering LB, LLC's, Bin Li and VIP Accountancy, INC's demurrers to the Second Amended Complaint of Plaintiff Mengyuan Liu is sustained in its entirety follows: First cause of action for promissory fraud The demurrer to this cause of action is sustained. Fraud must be pled specifically, and general and conclusory allegations do not suffice; policy of liberal construction of the pleadings will not ordinarily be invoked. *Murphy v. BDO Seidman, LLP* (2003) 113

Cal. App. 4th 687. That specificity has not been achieved with the representations themselves.

For example, paragraphs 17 through 21 are incorporated into the first cause of action, but the allegations of paragraph 44 only serve to confuse those allegations. That paragraph states:

44. Defendant Xiang made misrepresentation to Plaintiff on many occasions. He represented Plaintiff that Poke represented the new trend for health food, standing to trigger a revolution in fast food industry. He represented that Element had 25 years of successful experience in fast food industry. He enticed Plaintiff to invest in one of Poki Cat restaurants. He predicted that there would be 20 Poki Cat restaurants in California in 20l8 and 120 throughout the United States in 2019, and the Poki Cat chain would be listed on U.S. stock market in 2019; if successful, all investors would obtain original shares of the parent company and became rich. Defendant Xiang also disseminated the Poki Cat promotional brochures with the same or similar information. In the social media, De Xiang even posted a made-up photo, in which Donald Trump was shown to inscribe his thanks to Mr. Xiang for the contribution made by Great China Food, LLC, Element Catering Group, LLC, and Poki Cat restaurant business.

Plaintiff does not state when those representations were made, by whom, etc.

Second cause of action for constructive fraud

The demurrer to this cause of action is sustained. As with the first cause of action above, the details of the alleged misrepresentations are not alleged.

Third cause of action for conversion

The demurrer to this cause of action is sustained. Plaintiff was not granted leave to amend this cause of action following the last demurrer. Further, "money can be the subject of an action for conversion if a specific sum capable of identification is involved." (*Farmers Ins. Exchange v. Zerin* (1997) 53 Cal.App.4th 445, 452. As illustrated above, plaintiff has not, and cannot identify a specific fund. ("Plaintiff has been damaged in an amount to be decided at trial. The acts or conducts of the Element Defendants, as alleged above, were a substantial factor in causing plaintiff's harm." (TAC, paragraph 64.)

Sixth cause of action for breach of contract – Operating Agreement

The demurrer to this cause of action is sustained. Plaintiff was not granted leave to amend this cause of action following the last demurrer.

Seventh cause of action for breach of fiduciary duty

The demurrer to this cause of action is sustained. Plaintiff has alleged she is a *majority* shareholder, not a minority shareholder. (Paragraph 1, TAC) Plaintiff did not provide any case law that supports a breach of fiduciary duty claim by a majority shareholder against a minority shareholder.

		The motion to strike is denied as moot. Plaintiff is denied leave to amend. Moving Parties to give notice.
4	**Santa Ana Police Officers Association vs. City of Santa Ana** **2021-01230129**	Defendant City of Santa Ana's Motion For Judgment on The Pleadings is denied. (See Code Civ. Proc. § 438.) Defendant's motion concedes that the City previously demurred to the complaint, that this motion raises the same issues as the previous demurrer, and that the demurrer was overruled. (See Motion pg. 11) Calif. Code of Civil Procedure, section 438, subsection (g)(1) states: "(g) The motion provided for in this section may be made even though either of the following conditions exist: (1) The moving party has already demurred to the complaint or answer on the same grounds as is the basis for the motion provided for in this section and the demurrer has been overruled, provided that there has been a material change in applicable case law or statute since the ruling on the demurrer." Defendants fail to cite any material change in applicable case law or statute since the ruling on the demurrer. Defendants also fail to cite any authority for the proposition that a ruling on procedural grounds is not a ruling on a "demurrer" under subsection (g)(2) of section 438 or that such ruling renders the demurrer that defendants previously filed null for purposes of Calif. Code of Civil Procedure, section 438, subsection (g). Even if the court treats the motion as a renewal of the defendants' previous demurrer (see *R & B Auto Ctr., Inc. v. Farmers Group, Inc.* (2006) 140 Cal.App.4th 327, 373 [name of motion not controlling]), the defendants' evidence fails to show the existence of (i) "new or different facts, circumstances or law"; and (ii) is not supported by declaration showing the previous order, by which judge it was made, and what new or different facts, circumstances or law are claimed to exist (Code Civ. Proc. § 1008, subd.(b); see also *Graham v. Hansen* (1982) 128 Cal.App.3d 965, 969-70.) Defendant's request for judicial notice is granted. Judicial notice is limited to existence of, filing of, and legal effect of the records but not a to the truth of any facts stated therein. Defendants are ordered to give notice.
5	**Kim vs. Acacio Fertility Center, Inc** **2023-01340247**	Attorneys Jane Morrow's and Matt S. Weber's applications to appear as counsel pro hac vice for plaintiffs Gretchen Kim and Jack Kim are GRANTED. Moving party shall give notice.
6	**Louis D. Brandeis**	Before the Court are Plaintiff/Petitioner Louis D. Brandeis Center for Human Rights Under Law and Southern Californians for Unbiased Education's two motions to admit counsel to

	Center for Human Rights Under Law vs. Santa Ana Unified School District Board of Education **2023-01349344**	appear pro hac vice. Petitioners request that attorneys Marc Stern and James Pasch to be permitted to represent them as counsel pro hac vice. The Court has assessed the merits of the Applications and finds that Petitioner has satisfied the requirements of California Rule of Court, Rule 9.40 now that adequate proof of service of the application upon the State Bar of California has been filed. Accordingly, the Applications of Marc Stern and James Pasch for Admission to Appear Pro Hac Vice are GRANTED. Moving Party to provide notice.
7	**Hitchcock vs. Lopez-Figueroa** **2022-01265170**	Plaintiffs David Hitchcock and Cornelia Spassoff's motion to strike defendant Claudia Veronica Lopez-Figueroa's first amended answer is DENIED. The only relief plaintiffs seek is an order striking the first amended answer in its entirety. The mere fact that the amended answer contains certain affirmative defenses that plaintiffs previously demurred to successfully and which defendant did not timely amend (see ROA No. 36), does not justify striking the entire amended answer when it is otherwise timely (see ROA No. 43). Plaintiffs shall give notice.
10	**Rodriguez vs. Aguirre Cardenas** **2021-01214563**	Defendant Lear Corporation's motion to quash the service of summons of the complaint of Plaintiffs Victor Manuel Rodriguez, et al. is granted. Plaintiff has not met its initial burden showing this court has either general or special personal jurisdiction over Lear. It is undisputed Moving Party is not a California corporation and there is no showing of defendant having substantial, continuous, and systematic contacts in California. Doe v. Roman Catholic Archbishop of Cashel & Emly (2009) 177 Cal.App.4th 209; Serafini v. Superior Court (1998) 68 Cal.App.4th 70. There is no showing contacts that are so extensive that they replace a physical presence in the state, rendering the corporation essentially "at home" in the forum state. Preciado v Freightliner, supra. Plaintiffs have not met its burden showing this court has specific jurisdiction over Lear. Plaintiffs have not shown sufficient purposeful contacts with California. Further, plaintiffs have not shown their claims must arise out of or relate to the defendant's contracts with the forum. Swenberg v. Dmarcian, Inc. (2021) 68 Cal.App.5th 280. There is no showing the contacts derive from, or relate to, the controversy that established jurisdiction. T.A.W. Performance, LLC v. Brembo, S.p.A. (2020) 53 Cal.App.5th 632. Plaintiffs' objections to the declaration of Russell Davidson are overruled. Defendant's objections to the declaration of Lucas Whitehill are overruled. Moving Party to give notice.

11	**Carno Law Group vs. Integrated Process Control Engineering, Inc.** **2019-01090061**	Plaintiff Carno Law Group's Motion For Issue and Monetary Sanctions is granted. Plaintiff met its evidentiary burden to show (1) a failure to comply with orders to provide discovery, and (2) defendant's failure was willful. (See Biles v. Exxon Mobil Corp. (2004) 124 Cal.App.4th 1315, 1327; Vallbona v. Springer (1996) 43 Cal.App.4th 1525, 1545.) Nothing in the Rules of Court or Code of Civil Procedure authorizes an electronic signature of a verification of discovery responses, as discovery responses are not filed with the court. (See Calif. Rules of Court, rule 2.257(b).) The court issues an issue sanction establishing that Integrated Process Control Engineering, Inc., and Alta Automation are alter egos of defendant John Blum and precluding defendant form offering any evidence to the contrary. The court also imposes additional monetary sanctions against John Blum only in the amount of $2,800.00 payable to counsel for plaintiff within thirty days. Plaintiff is ordered to give notice.
12	**Verduzco Suarez vs. Director of the Department of Motor Vehicles** **2023-01328515**	Respondent Department of Motor Vehicles' motion to vacate the 11/17/23 order is GRANTED. (See Code Civ. Proc., § 473, subd. (d); County of San Diego v. Gorham (2010) 186 Cal.App.4th 1215, 1226; see also Kremerman v. White (2021) 71 Cal.App.5th 358, 369-371; Strathvale Holdings v. E.B.H. (2005) 126 Cal.App.4th 1241, 1249.) At the time of the 11/17/23 hearing, respondent had not yet been properly served with the summons and petition and had not yet made a general appearance. (See Campos Decl. ¶¶ 4-6, 10-11, Ex. A.) An order or judgment is void for lack of personal jurisdiction where there is no proper service on or appearance by a party to that proceeding. (County of San Diego v. Gorham, supra, 186 Cal.App.4th at p. 1226.) Matter is set for the hearing on the Writ on June 28, 2024, at 9:00 a.m. Respondent shall give notice.
13	**Azpeitia vs. Alvarez Zalpa** **2019-01109879**	Defendant Berber Roofing, Inc.'s motion to bifurcate is GRANTED with the issue of Berber Roofing, Inc.'s vicarious liability to be tried first. (See Code Civ. Proc., §§ 598, 1048, subd. (b).) The court finds bifurcation of trial to allow for the issue of Moving Party's vicarious liability to be separately tried before the remaining issues in this case is in furtherance of the ends of justice, and that the economy and efficiency of handling the litigation would be promoted by bifurcating this issue from the other issues to be determined at trial. Moving party to give notice.

14	**Wang vs. Happy Pregnancy Care & Medical Management (USA) Co., Ltd.** **2019-01077617**	The Motion by Defendants Happy Pregnancy Care & Medical Management (USA), Ltd., Meilan Lin, Joint Perfect, and Yi Qin to Require Plaintiff to Post and Undertaking is denied. (See Code Civ. Proc. § 1030.) To obtain an order requiring a bond, defendant must show a "reasonable possibility" that it will prevail at trial, and a detailed estimate of the costs it is likely to incur. (See CCP § 1030(a), (b); Baltayan v. Estate of Getemyan (2001) 90 Cal.App.4th 1427, 1433.) Defendants failed to present any evidence establishing a possibility of their obtaining judgment in this action (See Code Civ. Proc. § 1030, subd. (b)) and therefore have not made the evidentiary showing required for the relief requested. Defendants are ordered to give notice.
15	**Patel vs. CCS** **2021-01183879**	Off calendar.
16	**Kim vs. Providence St. Jude Medical Center** **2023-01345014-**	Defendants Ryan Gleason and Consolidated Communication Systems' ("CCS" and together with Ryan Gleason "Defendants") Motion for Summary Judgement and in the Alternative Summary Adjudication is GRANTED. Defendants have met the burden to show the action has no merit. (See Cal. Code Civ. Proc. §437c, subds. (a), (p)(2); Aguilar v. Atlantic Richfield Co. 2001) 25 Cal.4th 826, 850-851 [moving party's burden].) Namely, Defendants have made the initial showing by: - Presenting evidence that Defendants CCR and Gleason observed corporate formalities such that imposition of alter ego liability is inappropriate. (SSUMF Nos. 1-18.) - Presenting evidence that Plaintiff cannot establish the element of damages. (SSUMF Nos. 30-33.) - Presenting evidence that Plaintiff cannot establish the element of intent to disrupt, necessary to sustain his claim for Intentional Interference with Contractual Relations. (SSUMF Nos. 21-22.) Plaintiff Piyush Patel has submitted an Opposition to the Motion. In conjunction with the Opposition, Plaintiff has submitted what is styled as a Separate Statement. Plaintiff has also submitted the declarations of Cross-Defendants Brian Newkirk and Piyush Patel as the lone evidentiary support for his Opposition. Once the moving party has successfully shifted the burden, the responding party must identify a triable issue of material fact to avoid summary judgment/adjudication. To make this showing, the opposition must be supported by a separate statement that responds to each fact the moving party has contended is undisputed and identifies any additional material facts the opposing party considers to be disputed.

		California Rules of Court, Rule 3.1350, subd. (f) describes the requirements for a separate statement in opposition to a §473c Motion. Namely, the separate statement "must unequivocally state whether that fact is "disputed" or "undisputed." An opposing party who contends that a fact is disputed must state … the nature of the dispute and describe the evidence that supports the position that the fact is controverted." Here, Plaintiff's separate statement entirely fails to state the nature of the dispute and fails to describe the evidence that supports the position that the fact is controverted. Based upon what Plaintiff has submitted in opposition to the Motion, it is impossible to assess the nature of Plaintiff's claims that certain facts are disputed. Furthermore, Plaintiff's papers are replete with incomplete references to this separate statement. (e.g., "see PSSF ___".) When a party opposing summary judgment fail to submit a conforming separate statement, it is within the Court's discretion to grant the motion. (Cal. Code Civ. Proc. §473c, subd. (b)(3); see Oldcastle Precast, Inc. v. Lumbermens Mutual Casualty Co. (2009) 170 Cal.App.4th 554, 568.) Despite the magnitude of Plaintiff's non-compliance here, the Court has fully considered Plaintiff's Opposition, Separate Statement and supporting declarations. Defendant has lodged objections to Plaintiff's supporting evidence. The Court rules as follows: Objection 1: Sustained Objection 2: Sustained. Objection 3: Sustained. Foundation. Objection 4: Sustained. Legal conclusion. Objection 5: Overruled, but immaterial to ruling on the Motion. Objection 6: Sustained. Speculation. Legal Conclusion. Objection 7: Sustained. Speculation. Legal Conclusion. Objection 8: Overruled. Objection 9: Sustained. Relevance. Foundation. Objection 10: Overruled. Objection 11: Overruled. Objection 12: Sustained. Foundation. Speculation. Legal Conclusion. Objection 13: Sustained. Foundation. Legal Conclusion. Objection 14: Overruled.

		Objection 15: Overruled. Objection 16: Overruled. Objection 17: Overruled. Objection 18: Objection. Foundation. Inadmissible opinion. Hearsay. Objection 19: Sustained. Speculation. Legal Conclusion. Objection 20: Sustained. Foundation. Hearsay. Objection 21: Sustained. Foundation. Objection 22: Sustained. Foundation. Legal Conclusion. Speculation. Inadmissible opinion. Objection 23: Sustained. Relevance. Objection 24: Overruled. Objection 25: Sustained. Foundation. Legal Conclusion. Objection 26: Overruled. Objection 27: Overruled. Objection 28: Sustained. Foundation. Hearsay. **ISSUE A(1): Alter Ego** Defendant Gleason argues that he, as an individual, cannot be held individually liable for the torts committed by CCS unless there is a finding of alter ego liability (piercing the corporate veil). Defendant cites to the Court's ruling on the demurrer to the SAC which appears to state that the basis for Mr. Gleason's potential liability in this case could only be based upon a theory of alter ego liability. Whether Defendant Gleason has met his initial burden: Defendant attempts to meet his burden on summary judgment as to this issue by submitting evidence negating the "unity of interest and ownership" element of veil piercing. (See SSUMF Nos. 1-18.) Defendant does so through submission of affidavits from Ryan Gleason and William Gleason and providing documentary evidence that all corporate formalities were observed with respect to CCS and no co-mingling or other factors are present. Defendant also asserts that Plaintiff has presented no evidence (or even allegation) that an inequitable result will follow if the alter ego doctrine is not applied.

		This showing is sufficient to shift Defendant's burden under Cal. Code Civ. Proc. §437c, subd. (p)(2). The evidence submitted negates one or more elements of Plaintiff's alter ego theory. Whether Plaintiff has raised a triable issue of material fact In opposition, Plaintiff argues that it would be an inequitable result if Gleason were allowed to "get away" with "interfering with Plaintiff's numerous contracts with other trades that were involved in building the Property." (ROA No. 168 at p. 3.) Plaintiff also argues that determination of alter ego is a question of fact and is therefore not appropriate to raise on summary judgment. (ROA No. 168 at p. 3.) Finally, Plaintiff submits evidence (via the declarations of A. Patel and Newkirk) that Gleason "repeatedly told both Anand Patel ("Patel") and Brian Newkirk ("Newkirk") that he was the owner and operator of CCS, that his father played little if any role in the operations of CCS and that he was the sole decision maker about what jobs to accept and how to bid, schedule, and perform jobs contracted by CCS. He also asked that payments for change orders be made in cash so as to hide them from his father and CCS i.e., commingling." (ROA No. 168 at p. 4.) Plaintiff's argument that finding no alter ego would result in iniquity is not supported at all. Plaintiff's argument is that in the absence of alter ego that Gleason would "get away" with whatever wrongs he's alleged to have committed fails completely. First, this argument makes no sense because it could apply to any limitation of liability for any shareholder/member of any corporation or LLC. Second, there is no showing that the alleged alter ego has caused the entity to be undercapitalized such that it cannot meet its obligations. Had Plaintiff provided evidence showing that Gleason, during the applicable time period, treated CCS as an undercapitalized sham entity rather than treating it as a separate legal entity, then perhaps there would be a triable issue of fact as to this theory. But Plaintiff has made no such showing. Plaintiff also attempts to raise a triable issue of fact by claiming that Gleason failed to follow corporate formalities in the management of CCS. This argument also fails completely. Defendant provided admissible evidence that Plaintiff did not object to showing that Defendant has respected corporate formalities, etc. Plaintiff makes completely speculative and unfounded arguments based on assertions that Gleason claimed to call the shots at CCS as a basis for finding alter ego. Even if Plaintiff's declarations competently established the fact that Gleason made these statements and all reasonable inferences are drawn from this statement, this still does not raise a triable issue of fact as it concerns application of the alter ego doctrine. Plaintiff is apparently claiming that any individual who has control over a business entity has personal liability for any of the entity's debts and/or obligations. Plaintiff also argues that Gleason engaged in commingling based upon speculation drawn from Gleason asking to be paid in cash. The Patel declaration states, "Gleason asked to be paid in cash at least three times and his excuse was that he wanted to hide the money from his father." (ROA No. 172 Patel Decl. ¶64.) First, if anything, this contradicts Plaintiff's arguments regarding Gleason's control of CCS. Second, even if taken true along with all reasonable inferences drawn, this statement is not evidence of commingling. In sum, Plaintiff's Opposition fails to raise whether Ryan Gleason was the alter ego of CCS.

ISSUE B(1): Breach of Contract

Whether Defendants have met the initial burden:

The elements of a claim for breach of contract are (1) the existence of a contract; (2) the plaintiff's performance or excuse from performance of the contract; (3) the defendant's breach; and (4) resulting damages to the plaintiff. (See Oasis West Realty, LLC v. Goldman (2011) 51 Cal.4th 811, 821.)

Defendant attempts to meet his burden on summary judgment as to this issue based upon (1) Plaintiff's deposition testimony that unequivocally states he has incurred no damages because of CCR's work; and (2) admissions in Plaintiff's discovery responses that he did not incur damages.

Additionally, Defendant points to Plaintiff's admission in written discovery that "Mr. Anand Patel did incur approximately $100,000 in damages." Plaintiff is not Mr. Anand Patel. No other damages are identified in discovery responses, nor are they linked to Plaintiff.

This is sufficient to meet Defendant's burden. Defendant has shown that Plaintiff has admitted in discovery that he has not incurred any damages.

Whether Plaintiff has raised a triable issue of material fact

Plaintiff opposes the motion by first arguing that CCS "is not disputing" the element of breach. This is irrelevant, as for the purposes of this Motion, Defendant is arguing that no triable issue of fact exists as to Plaintiff's lack of damages.

With respect to damages, Plaintiff argues that he had to incur costs after terminating CCS. Plaintiff then attempts to cite to the separate statement but does not identify what items in his separate statement support these claims. PSSF 87 states "as a result of the shoddy and complete work done by Gleason, Patel had to reduce the sale price of the home by $400,000.00 and expend in excess of $65,000 in completing the job." (ROA 178.) No citation to supporting evidence is provided. There is nothing in the discovery responses or deposition testimony that have been provided to the Court that indicate these figures have any admissible evidentiary support whatsoever.

Nothing else in PSSF addresses the issue of damages, nor does the PSSF contain a single reference that "Plaintiff had to incur costs to finish CCS's work and paid in excess of $22,000.00 to Dunn Right Electric, paid at least $10,000.00 to complete work not performed by CCS to the automation professional to complete / correct work; and in excess of $15,000.00 to Newkirk to babysit CCS, not counting monies expended in other tasks such as cleaning up damage to paint and surface area damaged by CCS / Gleason. PSSF __."

This is plainly insufficient to raise a triable issue of fact as to damages.

ISSUE B(2) Intentional Interference with Contractual Relations

Whether Defendants have met the initial burden:

		The elements of a cause of action for Intentional Interference with Contract are (1) a valid contract between the plaintiff and a third party; (2) the defendant has knowledge of the contract; (3) the defendant committed an intentional act with the intent of inducing a breach or otherwise disrupting the contractual relationship; (4) an actual breach or disruption of the contractual relationship occurred; and (5) the plaintiff was damaged as a result. (Pacific Gas & Elec. Co. v. Bear Stearns & Co. (1990) 50 Cal. 3d 1118, 1126; Reeves v. Hanlon (2004) 33 Cal.4th 1140, 1148; Sole Energy Co. v. Petrominerals Corp. (2005) 128 Cal.App.4th 212, 237.) As an initial matter, the preceding discussion of the issue of damages also applies to Plaintiff's IICR cause of action. In addition, Defendant's Motion presents evidence, through the declarations of Ryan Gleason and William Gleason that there was no intent to cause any disruption of any contractual relationship Plaintiff had with any third party. Defendant has sufficiently shifted the burden by providing evidence that negates the elements of (1) intent to disrupt and (2) damages. Whether Plaintiff has raised a triable issue of material fact Plaintiff argues in the Opposition that Plaintiff has produced "in excess of 6,650 pages of documents, including contracts with other trades related to the project. PSSF __" Review of Plaintiff's Separate Statement has shown that there is not a single reference to a single document Plaintiff has purportedly produced in support of any claim of disputed material facts. The fact that Plaintiff has produced 6,650 pages in response to discovery requests does not raise a triable issue of fact. Defendant has argued Plaintiff's production contained no evidence of contracts with a third party. Plaintiff has done nothing to show that there are contracts with third parties. Moreover, it is entirely beside the point, as Defendant also establishes that there was no intent to disrupt any contract and there were no damages. Plaintiff has again failed to meet his burden to identify a triable issue of disputed material fact as to the IICR cause of action. All that Plaintiff has provided are two declarations by A. Patel and Newkirk that contain a hash of inflammatory opinion and conclusory statements. Based upon Plaintiff's Opposition, there is simply no basis to find a triable issue of material fact, as there has been no admissible evidence presented in opposition to the Motion. **ISSUE C: Contractual Waiver of Consequential/Special Damages** Given the discussion above, there is no need to reach the issue of whether the contractual waiver of consequential damages is unenforceable. Defendant to provide notice of this ruling.
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