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reduces clients' costs, better advances clients' interests, reduces stress,
increases professional satisfaction, and promotes effective conflict resolution."
-- OCBA Civility Guidelines

TENTATIVE RULINGS
Judge Nathan Scott, Dept. W2

- The court encourages remote appearances to save time, reduce costs, and increase public safety. Go to https://www.occourts.org/media-relations/civil.html and click on the yellow box that says: "CLICK HERE TO APPEAR FOR THE ONLINE CHECK-IN/ZOOM PILOT PROGRAM."

- All Hearings are open to the public. The courtroom doors are open.

- You must provide your own court reporter (unless you have a fee waiver and request one in advance).

- ***Call the other side*** and ask if they will submit to the tentative ruling.

  If ***everyone*** submits, then call the clerk. The tentative ruling will become the order.

  If anyone does not submit, there is no need to call the clerk. The court will hold a hearing. The court may rule differently at the hearing. (See *Lewis v. Fletcher Jones Motor Cars, Inc.* (2012) 205 Cal.App.4th 436, 442, fn. 1.)

HEARING DATE: Fri. 4/19/24 at 10 am
Posted Thu. 4/18/24 at 11:45 am

1	SNC Engineering v. Chin	Plaintiff SNC Engineering Inc.'s motion to compel is granted. Defendant Sang Wok Chin shall serve complete, code-compliant, verified further responses to plaintiff's requests for production (set one) #4, 7, 25-30, and 34-38 without objection and produce all responsive documents within 30 days. Defendant may limit its responses to documents and communications through 4/1/23. For Request #7, which does not already have a reasonable start date, defendant may limit its responses to documents and communication from 3/1/21 to 4/1/23. Defendant shall pay $4,725 in discovery sanctions to plaintiff. Plaintiff has shown good cause for production. The documents are relevant to plaintiff's contention that Chin competed with it through Sang Engineering while he worked for SNC. (Lyon decl. ¶¶ 5-6 & Exs. 2C, 2D; see also *id.*, Ex. 1 [Choi decl.] ¶¶ 4-

		5, 8-11, 13-15.) This contention is relevant to plaintiff's fiduciary duty and interference claims, regardless of whether plaintiff has a viable trade secret claim. (Cf. Opp. at pp. 2-3.) The court's 11/3/23 order limited the scope of discovery to the pre-4/1/23 time frame, as does this order. The 11/3/23 order did not prohibit plaintiff from seeking discovery beyond the two bids at issue in those subpoenas. (Cf. Opp. at pp. 1-2.) Nor did it limit discovery only to defendant's "rewards." (Cf. *id*. at p. 2.) Plaintiff shall give notice.
2	Bishara v. Altamed Health Services	Plaintiff Mariam Bishara's motion to appoint arbitrator is denied. The parties have already selected Hon. Charles Margines (ret.) using JAMS's rank-and-strike process. (See Adams decl. ¶¶ 3-9.) Plaintiff did not timely file any notice of disqualification. (See Code Civ. Proc., § 1281.91(b)(1).) Nonetheless, JAMS carefully reviewed plaintiff's concerns about the mediator. (See Adams decl. ¶ 15.) The evidence before the court does not shows the arbitrator has any conflict of interest or cannot remain neutral. The clerk shall give notice.
3	Wells v. Lyft	Defendant Steven Geranmayeh's motion to contest good faith settlement is denied. Geranmayeh has not met his burden to show the plaintiff Valerie Wells's settlement with cross-defendant Greg Edward Guild was not in good faith. (See Code Civ. Proc., § 877.6, subd. (d) ["The party asserting the lack of good faith shall have the burden of proof on that issue"]; *Tech-Bilt, Inc. v. Woodward-Clyde & Assocs.* (1985) 38 Cal.3d 488, 499-500 [factors].) A settling defendant's "modest 'financial [condition] and insurance policy limits' [citation] are necessarily controlling and effectively override the other *Tech-Bilt* factors." (*County of Los Angeles v. Guerrero* (1989) 209 Cal.App.3d 1149, 1158.) There is no "earthly good that would come from requiring [a] defendant . . . to remain in the action" where "[n]o evidence suggests that [defendant] has any assets, or any prospect of acquiring assets, other than [the] insurance policy." (*Schmid v. Superior Court* (1988) 205 Cal.App.3d 1244, 1248-1249.) Here, Geranmayeh has not shown Guild has assets to pay any judgment beyond the $15,000 settlement, which is concededly for his policy limit. (See *Tech-Bilt*, supra, 38 Cal.3d at p. 499 ["Other relevant considerations include the financial conditions and insurance policy limits of settling defendants"].)

		Defendant shall give notice.
4	Korpivaara vs. Hirson	**Case Management Conference** The CMC is continued to 6/20/24 at 2 pm. **Demurrer** Cross-defendants Nima Korpivaara and Nima Korpivaara A Professional Law Corporation's demurrer is sustained to the 7th cause of action and otherwise overruled. Cross-complainants David Hirson A Professional Law Corporation, David Hirson & Partners LLP, and David Hirson shall have leave to file and serve a 4th amended cross-complaint within 15 days. The court will refer to cross-complainants as "Hirson" and cross-defendants as "Korpivaara." Defect/misjoinder of parties. Korpivaara has not shown Niral Patel is an indispensable party. "An agent is not an indispensable party in litigation between his principal and a third party over the subject matter of the agency." (*Writers Guild of America, West, Inc. v. Screen Gems, Inc.* (1969) 274 Cal.App.2d 367, 374.) 1st cause of action, declaratory judgment-partner disassociation agreement. The TAXC states facts sufficient to constitute this cause of action. (See Code Civ. Proc., § 1060 [complaint must allege "actual controversy"]; *Nede Mgmt., Inc. v. Aspen American Insurance Company* (2021) 68 Cal.App.5th 1121, 1128 [statute "'contains no suggestion that the pleader must allege facts entitling him to a favorable declaration'"]; see also TAXC ¶¶ 130-140.) 2nd-3rd causes of action, breach of contract-partner disassociation agreement/breach of contract-of counsel agreement. The TAXC states facts sufficient to constitute these causes of action. (See *Oasis West Realty, LLC v. Goldman* (2011) 51 Cal.4th 811, 821 [elements]; *Aragon-Haas v. Family Security Ins. Services, Inc.* (1991) 231 Cal.App.3d 232, 239 [court accepts pleaded interpretation of ambiguous contract]; see also TAXC ¶¶ 40-44, 46-72, 142, 143 & Exs. A, B [contracts], ¶¶ 45, 85-93, 150 [performance], 75-84, 94-128, 144-149 [breach], 125, 151 [damages].) Korpivaara's contentions that the agreements were invalid or expired, they were was not actually breached, and no damages were actually suffered raise factual disputes not amenable to demurrer. The TAXC adequately alleges Korpivaara used actual proprietary information and documents belonging to Hirson. (TAXC ¶¶ 117,

		121.) It does not allege Niral Patel "recalled" a potential flaw in a document he personally prepared in allegedly disparaging Hirson to Community Development, or that the confidentiality clause would preclude Patel [or anyone else] from using "legal knowledge" acquired while working for Hirson. (Dem. at pp. 5-6.) 4th cause of action, intentional interference. The TAXC states facts sufficient to constitute this cause of action. (See *Della Penna v. Toyota Motor Sales, Inc.* (1995) 11 Cal.4th 376, 393 [elements; independently wrongful act]; *Korea Supply Co. v. Lockheed Martin Corp.* (2003) 29 Cal.4th 1134, 1159 [an act is independently wrongful if it is "unlawful, that is if it is proscribed by some constitutional, statutory, regulatory, common law, or other determinable legal standard"]; see also TAXC ¶¶ 169 [economic relationship], 170-171 [defendants' knowledge], 76, 94-105, 109-111, 114-128, 172-174 [act with intent to disrupt], 176 [actual disruption]; 177 [damages].) While breach of contract alone is generally insufficient to satisfy the "independently wrongful conduct" requirement (*Arntz Contracting Co. v. St. Paul Fire & Marine Ins. Co.* (1996) 47 Cal.App.4th 464, 479), the TAXC alleges other independently wrongful conduct. (TAXC ¶¶ 76, 114-117, 121, 128, 175 [trade secret misappropriation].) 5th cause of action, unfair business practices. The TAXC states facts sufficient to constitute this cause of action. (See Bus. & Prof. Code, §§ 17200, 17203 [unfair business practices generally].) It adequately alleges predicate claims and damages showing standing. (See *Korea Supply Co. v. Lockheed Martin Corp*. (2003) 29 Cal. 4th 1134, 1143 ["Section 17200 'borrows' violations from other laws"]; see also TAXC ¶ 186.) Also, "a demurrer cannot rightfully be sustained . . . to a particular type of damage or remedy." (*Kong v. City of Hawaiian Gardens Redevelopment Agency* (2002) 108 Cal.App.4th 1028, 1047.) 6th cause of action, civil conspiracy. The TAXC states facts sufficient to constitute this cause of action. (See *Mosier v. Southern California Physicians Insurance Exchange* (1998) 63 Cal.App.4th 1022, 1048 [elements]; TAXC, ¶¶ 76, 80, 188, 189 [conspiracy], 99-128, 190 [wrongful act furthering conspiracy], 191-192 [damages].) Any "ambiguities can reasonably be clarified under modern rules of discovery." (*Lickiss v. Financial Industry Regulatory Authority* (2012) 208 Cal.App.4th 1125, 1135.) 7th cause of action, unjust enrichment. Technically, no such cause of action lies in California. (See *Levine v. Blue Shield of California* (2010) 189 Cal.App.4th 1117, 1138.) Hirson shall have leave to amend to seek restitution in connection with another valid cause of action.

		8th cause of action, injunctive relief. The TAXC states facts sufficient to constitute this cause of action, at least as to Election Letter notification. (See *PH II, Inc. v. Superior Court* (1995) 33 Cal.App.4th 1680, 1682 ["demurrer does not lie to a portion of a cause of action"]; *Kong, supra,* 108 Cal.App.4th at p. 1047 ["a demurrer cannot rightfully be sustained . . . to a particular . . . remedy"].) Lack of standing. The brief does not develop any argument supported this noticed issue. (See Not. at p. 3:8-13.) Korpivaara's request for judicial notice is granted. (See *Williams v. Wraxall* (1995) 33 Cal.App.4th 120, 130, fn. 7 [court "may take judicial notice of the existence of judicial opinions and court documents, along with the truth of the results reached - in the documents such as orders, statements of decision, and judgments - but cannot take judicial notice of the truth of hearsay statements in decisions or court files, including pleadings, affidavits, testimony, or statements of fact"]; *Foreman & Clark Corp. v. Fallon* (1971) 3 Cal.3d 875, 884 [generally "an amendatory pleading supersedes the original one, which ceases to perform any function as a pleading"].) The FAXC does not flatly contradict the TAXC; any discrepancies have been adequately explained. (See *Hahn v. Mirda* (2007) 147 Cal.App.4th 740, 751 [amended complaint can correct errors and ambiguities]; *Owens v. Kings Supermarket* (1988) 198 Cal.App.3d 379, 384 [a plaintiff may "explain the inconsistency" between complaints]; TAXC ¶¶ 46, 50-53, 62.) **Motion to Strike** Korpivaara's motion to strike is denied. The motion is moot as to TAXC ¶¶ 194-196, given the ruling sustaining the demurrer to the 7th cause of action. Otherwise, the motion seeks a "procedural 'line item veto.'" (*PH II, supra,* 33 Cal.App.4th at p. 1683; accord *Quiroz v. Seventh Ave. Center* (2006) 140 Cal.App.4th 1256, 1281 [court should not "strike a whole cause of action" or any "matter that is essential to a cause of action"].) The challenged allegations are reasonably pleaded background or contextual facts. The parties to the contracts at issue are identified in the contracts attached to the TAXC. Even if the court strikes ¶ 153, the TAXC still alleges alter ego at ¶¶ 9-10. Allegations to cross-defendants as a group are permissible. Discovery will clear up any ambiguities. References to "N+K Law Group" are relevant to Hirson's allegations that Korpivaara wrongfully acted in their own interests or the interests of related parties, regardless of whether N+K Law Group is itself a party.

		Contradictions between the FAXC and TAXC, if any, have been adequately explained. The punitive damages allegations are adequately supported. (See Civ. Code, § 3294, subd. (c)(1) ["malice" includes "conduct which is intended by the defendant to cause injury to the plaintiff or despicable conduct which is carried on by the defendant with a willful and conscious disregard of the rights or safety of others"]; see also TAXC ¶¶ 76, 99-128, 175 [alleging client "poaching" including via trade secret misappropriation].) There are no treble damages allegations to strike. Korpivaara shall give notice of all rulings.
5	Uriarte v. G6 Hospitality	Defendant Buena Park Hotel LLC's motion for terminating sanctions is granted. The complaint is dismissed. (See Code Civ. Proc., § 2030.290, subds. (c), (d)(1).) The court has already deemed plaintiff Cerina Uriarte to have admitted defendant's RFAs. (See 11/17/23 order.) Plaintiff has now failed to respond to defendant's form interrogatories, special interrogatories, and requests for production as ordered, despite receiving an additional opportunity to respond. (See 11/17/23 order; Baldwin decl. ¶ 3.) As the court has already imposed one discovery sanction, plaintiff has failed to respond to an additional 3 sets of discovery despite a court order and second chance, and plaintiff has not opposed this motion, the court finds terminating sanctions appropriate. (See *Doppes v. Bentley Motors, Inc*. (2009) 174 Cal.App.4th 967, 992, [incremental approach]; see also *Liberty Mutual Fire Ins. Co. v. LcL Administrators, Inc*. (2008) 163 Cal.App.4th 1093, 1106 ["Given [plaintiff's] months-long lack of cooperation in providing straightforward information, witnesses, and documents to support its claims . . . the trial court could reasonably conclude that the ultimate sanction was appropriate"].) Defendant shall give notice.