Superior Court of the State of California
County of Orange
TENTATIVE RULINGS FOR N18
HON. Scott A. Steiner

Date: April 16, 2025

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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) 622-5618. Please do not call the department unless **ALL** parties submit on the tentative ruling. If all sides submit on the tentative ruling and 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 California Rules of Court, rule 3.1312.

Non-Appearances: If no one 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 may make a different order at the hearing. (Lewis v. Fletcher Jones Motor Cars, Inc. (2012) 205 Cal.App.4th 436, 442, fn. 1.)

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All counsel and self-represented parties appearing remotely must check-in online through the court's civil video appearance website at Civil Remote Hearings | Superior Court of California | County of Orange (occourts.org) before the designated hearing time. 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 Civil Remote Hearings | Superior Court of California | County of Orange (occourts.org) The Court's "Appearance Procedures and Information--Civil Unlimited and Complex" and "Guidelines for Remote Appearances" also are available at Civil Remote Hearings | Superior Court of California | County of Orange (occourts.org) Those procedures and guidelines will be strictly enforced.

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#	Case Name	Tentative
1.	2025-1467100 Borruel vs. Joslin	Plaintiff Lucy Borruel ("Plaintiff") seeks a preliminary injunction restraining Jeff A. Joslin, Stock Traders DBP Trust, by and through its trustee, Jeff A. Joslin, Lil'Wave Financial Inc. dba Superior Loan Servicing, and Asset Default Management Inc. (collectively, "Defendants") from recording or otherwise finalizing the Trustee's Deed Upon Sale and for an Order Setting Aside the foreclosure sale on the property located at 1519 E Nubian Lane, Orange, CA 92866 ("Subject Property"). On March 26, 2025, the Court granted Plaintiff's unopposed *ex parte* application for a TRO and OSC re preliminary injunction in part. The Court enjoined the recording of any trustee's deed until the Court addresses the requested preliminary injunction. The Court also set a briefing schedule for the OSC re preliminary injunction. On April 2, 2025, Plaintiff filed her supporting papers, but no proof of service was filed to show the moving papers were served on Defendants. However, on April 7, 2025, Defendants filed their opposition papers. Defendants' proof of service for their opposition and

		request for judicial notice state the server "will cause a copy of the above document to be served upon Rhonda Walker." (ROA No. 38 and 42.) This does not state the documents were electronically served. (Code Civ. Proc., § 1013b, subd. (b)(4).) In addition, Defendants' opposition declaration by Joslin did not include a service date for the declaration. (Code Civ. Proc., § 1013b, subd. (b)(2).) Defendants' opposition did not object to service of Plaintiff's papers. Problematically as it relates to the Court's determination regarding her likelihood of prevailing on the merits, Plaintiff did not file any reply. A host of damaging evidence remains unrefuted. Accordingly, as a threshold issue, the parties shall be prepared to discuss a continuance and order to file proper proof of service.
2.	2017-00927161 Amezcua-Moll v. Modarres	Thomas D. Sands of The Sands Law Group, APLC's motion for an order relieving it as counsel of record for Defendant Farrah Modarres is continued to May 7, 2025, at 10AM, in Department N18. Counsel has failed to file proof of service of the moving papers on the other parties, pursuant to Cal. Rules Ct., Rule 3.1362(d) and Cal. Code Civ. Proc., § 1005(b). Accordingly, Defense counsel is ordered to serve notice of its motion, and this continued hearing on both his client and all other parties and file a proof of service of same pursuant to the Code of Civil Procedure, no later than 5 court days before the new hearing date.
3.	2021-1205947 National Payment Systems v. Cardflex	*On its own motion, the Court continues the matter to April 23, 2025, at 10AM, in Department N18, to be heard jointly with the motion currently set that day.*
5.	2022-1293776 Ocampo Paz v. Rexford	Defendant Rexford Industrial Realty, L.P's ("Rexford") motion for summary judgment as to the Complaint of Plaintiffs Jenny Grissel Ocampo Paz and Estate of Juan Carlos Perez is denied. Plaintiffs' evidentiary objections are sustained as to Nos. 2 and 3 and overruled as to the remaining. Defendant's request that the Court take judicial notice of Plaintiffs' Complaint is denied as it is unnecessary to ask the court to take judicial notice of materials previously filed in

		this case. "[A]ll that is necessary is to call the court's attention to such papers." (Weil & Brown, Cal. Practice Guide: Civil Procedure Before Trial (The Rutter Group 2023) ¶ 9.53.1a.) "[F]rom commencement to conclusion, the party moving for summary judgment bears the burden of persuasion that there is no triable issue of material fact and that he is entitled to judgment as a matter of law." (*Aguilar v. Atlantic Richfield Co.* (2001) 25 Cal.4th 826, 850.) "A prima facie showing is one that is sufficient to support the position of the party in question." (*Id.* at p. 851.) A defendant moving for summary judgment satisfies his or her initial burden by showing that one or more elements of the cause of action cannot be established or that there is a complete defense to the cause of action. (Code Civ. Proc., § 437c, subd. (p)(2).) The scope of this burden is determined by the allegations of the plaintiff's complaint. (*FPI Development v. Nakashima* (1991) 231 Cal.App.3d 367, 381-382 [pleadings serve as the outer measure of materiality in a summary judgment motion]; *580 Folsom Associates v. Prometheus Development Co.* (1990) 223 Cal.App.3d 1, 18-19 [defendant only required to defeat allegations reasonably contained in the complaint].) A cause of action cannot be established if the undisputed facts presented by the defendant prove the contrary of the plaintiff's allegations as a matter of law. (*Brantley v. Pisaro* (1996) 42 Cal.App.4th 1591, 1597.) Alternatively, a moving defendant can show that a cause of action cannot be established by submitting evidence, such as discovery admissions and responses, that plaintiff does not have and cannot reasonably obtain evidence to establish an essential element of his cause of action. (*Aguilar v. Atlantic Richfield Co., supra,* 25 Cal.4th at pp. 854-855; *Union Bank v. Superior Court* (1995) 31 Cal.App.4th 573, 590 [finding moving defendant may show plaintiff's lack of evidence by factually devoid discovery responses after plaintiff has had adequate opportunity for discovery]; see *Scheiding v. Dinwiddie Constr. Co.* (1999) 69 Cal.App.4th 64, 80-81 [finding *Union Bank* rule only applies where discovery requests are broad enough to elicit all such information].) Once a defendant meets its prima facie showing, the burden shifts to the plaintiff to show by reference to specific facts the existence of a triable issue as to that affirmative defense or cause of action. (*Aguilar v. Atlantic Richfield Co., supra*, 25 Cal.4th at p. 850.)

		Rexford owns the subject property where the accident occurred. (UMF 1.) Rexford executed a construction contract with Defendant BHL, Inc. dba West Coast Roofing Co. for replacement of the roof. (UMF 2-4.) BHL ordered roofing supplies from Defendant Beacon Roofing Supply for delivery to the property; Beacon employed Decedent Juan Carlos Perez. (UMF 5-6.) While in the process of delivering roofing supplies on behalf of Beacon, Decedent fell through a skylight that was located on the roof of the Subject Property. (UMF 7.) Defendant's motion is based on *Privette v. Superior Court* (1993) 5 Cal.4th 689, in which the California Supreme Court addressed the doctrine of peculiar risk. The peculiar risk doctrine provides a general rule that the hirer of an independent contractor may be vicariously liable for injuries caused to third parties by that contractor's negligence where the contracted work is inherently dangerous. (*Id.* at p. 691.) The *Privette* Court carved out an exception to the doctrine, holding that a property owner who hires an independent contractor to perform construction work cannot be held liable for injuries to that contractor's employee where the property owner did not cause the employee's injuries. (*Id.* at p. 702.) Once a defendant establishes that it hired an independent contractor to perform certain work, and the independent contractor's worker was injured in the course of the work, the burden shifts to plaintiff to raise a triable issue of fact as to whether any exceptions to the *Privette* doctrine apply. (*Miller v. Roseville Lodge No. 1293* (2022) 83 Cal.App.5th 825, 834 [citing *Alvarez v. Seaside Transportation Services LLC* (2017) 13 Cal.App.5th 635, 644].) If Plaintiff cannot do this, Defendant is entitled to summary judgment. (*Ibid.*) Defendant failed to plead the *Privette* Doctrine as an affirmative Defense in its Answer. (ROA 17.) As a result, for purposes of summary judgment, this argument is waived. (See (*California Academy of Sciences v. County of Fresno* (1987) 192 Cal.App.3d 1436 ("[a] party who fails to plead affirmative defenses waives them."), 1442 Cal. Prac. Guide Civ. Pro. Before Trial Ch. 10(B) at ¶ 10.51.19; citing *Kendall v. Walker* (2009) 181 Cal.App.4th 584, 598; *FPI Develop., Inc. v. Nakashima* (1991) 231 Cal.App.3d 367, 383).) Defendant's reliance on *Atkins v. St. Cecilia Catholic School* (2023) 90 Cal.App.5th 1328, in its reply brief is of little persuasion. This case is distinguishable as the defendant

		did not realize that this defense was available to it until the Supreme Court issued a ruling during the pendency of the litigation. Furthermore, before the defendant filed its MSJ, it gave the plaintiff notice of its intent to assert this defense in filing a motion to set aside a scheduling order. (Id. at 1341.) Even if Defendant had not waived this defense by failing to assert it in its Answer, the Court finds that a triable issue of material fact exists as to whether the concealed condition exception to the *Privette* doctrine applies. Under this exception, "the hirer as landowner may be independently liable to the contractor's employee, even if it does not retain control over the work, if: (1) it knows or reasonably should know of a concealed, preexisting hazardous condition on its premises; (2) the contractor does not know and could not reasonably ascertain the condition; and (3) the landowner fails to warn the contractor." (*Kinsman v. Unocal Corp*. (2005) 37 Cal.4th 659, 675.) A condition is not concealed if it is "known," "reasonably ascertainable," or "apparent to a reasonable person." (*Id.*) Plaintiffs submit evidence (primarily the deposition of then roofing contractor, West Coast's person most knowledgeable) that West Coast's superintendent inspected the subject roof a few days before Beacon's employees delivered the roofing material that West Coast bought from Beacon. One of the purposes was to check for safety hazards such as unprotected skylights and to mitigate or eliminate those hazards. There is a regulation requiring skylights to be capable of absorbing weight up to 400 pounds and be protected by netting or screens also capable of absorbing 400 pounds. (PAMF 33-35.) The evidence reflects that there was no netting or any other type of protective barrier on the subject skylight. Nor were there guardrails. (PAMF 37-42.) Defendant focuses on the issue of control; it contends that it had no role in directing the activities of the contractors involved and retained no control over the worksite. But, pursuant to *Kinsman*, it is not necessary that control be shown to preclude the application of *Privette*, rendering Defendant liable. (See *Kinsman, supra,* 37 Cal.4th at 675.) The Court finds that there are triable issues of material fact as to whether Rexford, as owner of the property, knew or

		should have known of the dangerous condition of the unprotected skylights on the roof. Thus, because there are therefore triable issues of fact as to whether the *Privette* Doctrine shields Defendant from liability, there are more general triable issues of fact as to whether Defendant, as the landowner, is responsible for the negligence of its subcontractor, West Coast in failing to mitigate the hazards of the unprotected skylights. (See *Srithong v. Total Investment Co.* (1994) 23 Cal.App.4th 721, 725 ("[t]he duty which a possessor of land owes to others to put and maintain it in reasonably safe condition is nondelegable. If an independent contractor, no matter how carefully selected, is employed to perform it, the possessor is answerable for harm caused by the negligent failure of his contractor to put or maintain the buildings and structures in reasonably safe condition).) As a result, the MSJ is denied. Plaintiff shall give notice.
6.	2023-1333479 Arevalo v. Nissan	Defendant Nissan North America, Inc.'s motion for relief from waiver of objections to requests for production, set one ("RFPs"), and requests for admission, set one, served by plaintiffs Neftali Arevalo and Maria Yamileth Bonilla is granted. Plaintiffs' motions to compel responses by Defendant to RFPs is therefore moot. The court may relieve a party from a waiver of objections to interrogatories if two conditions are satisfied: (1) the party has subsequently served a response that is in substantial compliance; and (2) the party's failure to serve a timely response was the result of mistake, inadvertence, or excusable neglect. (Code Civ. Proc. §§ 2030.290(a) (interrogatories); 2031.300(a) (inspection demand); 2033.280(a) (requests for admission)). With respect to the first condition, Defendant has now served code compliant responses. [Do Decl. (ROA #107), Ex. C; Do Reply Decl. (ROA #222), Ex. A.] "[A]ny form of response [] is permissible," including an answer or objection. Cal. Prac. Guide Civ. Pro. Before Trial at ¶ 8:1035. That is, "there must be a full and fair response to each interrogatory; so that all questions are answered other than those to which

		the belated objections relate." *Id.* (discussing CCP §2031.300(a), which is to same effect as CCP §2030.290(a)). With respect to the second, Defendant's counsel points to several failures of communication resulting in her being unaware. According to her declaration, Defendant's counsel was originally unaware of the discovery because it was served on Defendant's agent for service of process rather than counsel. Nor did Plaintiffs' counsel alert Defendant's counsel that there was outstanding discovery that she had not responded to. Further, counsel did not realize she had failed to respond when served with the motions to compel because they were mistakenly logged as motions to compel *further* responses. [Do Decl. (ROA #103), ¶¶ 2-3.] "Accordingly, I was not aware that Nissan's discovery responses were overdue." [*Id.*, ¶ 3.] Under the circumstances, the court finds counsel's neglect to be excusable. *See City of Fresno v. Superior Court* (1988) 205 Cal.App.3d 1459, 1467 (applying CCP 473 standard under predecessor to CCP §2031.300(a), which is to same effect as CCP §2030.290(a)). Accordingly, Defendant's motion for relief from waiver is granted.
7.	2023-1332366 Adorn Premiums v. J Style Premiums	**Demurrer to First Amended Complaint** Defendant Freeway Industrial Park's demurrer to the second and fifth causes of action of Plaintiffs Adorn Premiums, LLC and Joshua Ivy's First Amended Complaint is VACATED. It appears that Plaintiffs attempted to file a First Amended Complaint ("FAC") on September 30, 2024. (ROA 67.) The attempt was rejected, however, with the Clerk commenting that leave of court was needed to file an amended complaint. (*Id.*) The instant demurrer is premature. No FAC has yet been filed and one cannot be filed without leave of court. Defendant Freeway Industrial Park to give notice. **Motion to Be Relieved as Counsel of Record** Attorney Brian Davis and Forward Counsel LLP move to be relieved as counsel for Plaintiff Adorn Premiums LLC. The motion is DENIED without prejudice.

		On February 26, 2025, the Court continued the instant motion to be relieved as counsel of record at Moving Counsel's request and ordered Forward Counsel LLP to give notice. (ROA 105 [02/26/25 Minute Order].) There is no indication in the Register of Actions that Plaintiff Adorn Premiums LLC was served with either the initial moving papers or notice of the continued hearing date. Moving party to give notice. **Motion to Be Relieved as Counsel of Record** Attorney Brian Davis and Forward Counsel LLP move to be relieved as counsel for Plaintiff Joshua Ivey. The motion is DENIED without prejudice. On February 26, 2025, the Court continued the instant motion to be relieved as counsel of record at Moving Counsel's request and ordered Forward Counsel LLP to give notice. (ROA 105 [02/26/25 Minute Order].) There is no indication in the Register of Actions that Plaintiff Joshua Ivey was served with either the initial moving papers or notice of the continued hearing date. Moving party to give notice.
8.	2024-1421460 Bullard v. Florence Crittenton Services	Defendant Florence Crittenton Services of Orange County, Inc.'s demurrer to plaintiff Beatriz Bullard's complaint is overruled. Defendant is to file its answer within 10 days. The causes of action in Plaintiff's complaint are based on alleged sexual abuse when she was a minor in 1998-2000. Accordingly, the statute of limitation established by Code Civ. Proc. §340.1, 340.11 applies to her causes of action. The time for commencement of the action is within 22 years of the date that the plaintiff attains the age of majority or within 5 years of the date that the plaintiff discovers or reasonably should have discovered that the sexual assault caused the psychological injury or illness occurring after the age of majority, whichever period expires later. Code Civ. Proc. § 340.11(a)(1); 3 Witkin, Cal. Proc. 6th Actions § 644A (2025). Defendant generally demurs to the causes of action in Plaintiff's complaint because Plaintiff has not alleged facts to

		show she filed her complaint within the statute of limitations. But it is not Plaintiff's burden to allege facts to show her complaint is timely filed. > A demurrer based on a statute of limitations will not lie where the action may be, but is not necessarily, barred. > [Citation.] In order for the bar ... to be raised by demurrer, the defect must clearly and affirmatively appear on the face of the complaint; it is not enough that the complaint shows that the action may be barred. *Committee for Green Foothills v. Santa Clara County Bd. of Supervisors* (2010) 48 Cal.4th 32, 42. > If the dates establishing the running of the statute of limitations do not clearly appear in the complaint, there is no ground for general demurrer. The proper remedy "is to ascertain the factual basis of the contention through discovery and, if necessary, file a motion for summary judgment...." (*United Western Medical Centers v. Superior Court* (1996) 42 Cal.App.4th 500, 505, 49 Cal.Rptr.2d 682.) *Roman v. County of Los Angeles* (2000) 85 Cal.App.4th 316, 324–325 (reversing order sustaining demurrer on statute of limitations grounds). *See also Geneva Towers Ltd. Partnership v. City of San Francisco* (2003) 29 Cal.4th 769, 781 (same); *City of Industry v. City of Fillmore* (2011) 198 Cal.App.4th 191, 207–208 (same); *Marshall v. Gibson, Dunn & Crutcher* (1995) 37 Cal.App.4th 1397, 1403 (same). Defendant provides no citation or explanation as to why this standard does not, or should not, apply to for the statute of limitations under Code Civ. Proc. §340.1, 340.11. Accordingly, relief through demurrer is not appropriate.
9.	2024-1417668 Kline v. Lucas	The general and special demurrer by Defendants Los Alamitos Race Course, erroneously sued as Los Alamitos Racetrack, and Dr. Edward C. Allred (collectively, "Demurring parties") to the first cause of action for negligence – premises liability alleged in the Complaint filed

		by Plaintiffs William Kline and Carolyn Kline (collectively, "Plaintiffs") is sustained in part with 15 days leave to amend and overruled in part. Demurring parties' request for the Court to take judicial notice of the unsigned application is denied. (*Gould v. Maryland Sound Industries, Inc.* (1995) 31 Cal.App.4th 1137, 1145 ["the existence of a contract between private parties cannot be established by judicial notice under Evidence Code section 452, subdivision (h)."]; *but see, Ascherman v. General Reinsurance Corp* (1986) 183 Cal.App.3d 307, 312 [Trial Court properly considered the reinsurance contract to determine whether Plaintiff stated a claim for declaratory relief under the reinsurance contract.].) Although Plaintiffs allege the parties entered into an agreement, there is no showing that this unsigned application *is* the alleged agreement. Nor is the premises liability cause of action based on a breach of a contractual duty. Demurring Parties' request to take judicial notice of the regulations, however, is granted. (Evid. Code, §§ 451 and 452; *Scott v. County of Los Angeles* (1994) 27 Cal.App.4th 125, 145; *Kern County v. Coley* (1964) 229 Cal.App.2d 172, 180.) **First cause of action for negligence – premises liability** "The elements of a negligence claim and a premises liability claim are the same: a legal duty of care, breach of that duty, and proximate cause resulting in injury." (*Kesner v. Superior Court* (2016) 1 Cal.5th 1132, 1158.) As a general rule, one has "no duty to act to protect others from the conduct of third parties." (*Delgado v. Trax Bar & Grill* (2005) 36 Cal.4th 224, 235.) Therefore, where a complaint alleges injuries resulting from the criminal acts of third persons, the common law ordinarily does not impose a duty upon a defendant to control the conduct of another or to warn of such conduct. (*Romero v. Superior Court* (2001) 89 Cal.App.4th 1068, 1079.) An affirmative duty to act may arise, however, where there is a special relationship between the parties. (*Delgado v. Trax Bar & Grill*, 36 Cal.4th at 235.) Among the commonly recognized special relationships that may give rise to a legal duty in a particular case is that "between a possessor of land and members of the public who enter in response to the landowner's invitation." (*Peterson v. San Francisco Community College Dist.* (1984) 36 Cal.3d 799, 806.) Landowners have a general duty of maintenance to their invitees which requires them "to maintain land in their

		possession and control in a reasonably safe condition." (*Ann M. v. Pacific Plaza Shopping Center* (1993) 6 Cal.4th 666, 674.) This duty encompasses a responsibility "to take reasonable steps" to secure the premises against "foreseeable criminal acts of third parties that are likely to occur in the absence of such precautionary measures." (*Id.*) However, a landowner is not the insurer of the safety of persons on its premises and is not required to take precautions against criminal attacks by third parties that the landowner has no reason to anticipate. (*Anaya v. Turk* (1984) 151 Cal.App.3d 1092, 1099.) Even where a special relationship exists, as in the case of a landowner and invitee, the "duty to take affirmative action to control the wrongful acts of a third party will be imposed only where such conduct can be reasonably anticipated." (*Ann M. v. Pacific Plaza Shopping Center,* 6 Cal.4th at 676.) "[F]oreseeability is determined in light of all the circumstances and not by a rigid application of a mechanical 'prior similar' rule." (*Frances T. v. Village Green Owners Assn.* (1986) 42 Cal.3d 490, 502.) Notably, "criminal conduct cannot absolve the defendant of liability where . . . the plaintiff alleges that defendants maintained the property in such a way so as to increase the risk of criminal activity." (*Peterson v. San Francisco Community College Dist.* (1984) 36 Cal.3d 799, 812.) The California Supreme Court recognized "the scope of the duty is determined in part by balancing the foreseeability of the harm against the burden of the duty to be imposed … ' "In cases where there are strong policy reasons for preventing the harm, or the harm can be prevented by simple means, a lesser degree of foreseeability may be required." [Citation.]' [Citation.]" (*Ann M. v. Pacific Plaza Shopping Cetner*, 6 Cal.4th at 678-679*; see also, Delgado v. Trax Bar & Grill*, 36 Cal.4th at 256 (dis. opn. of Kennard, J.) [foreseeability can be based on the prior similar incident approach or the totality of circumstances approach]; *Eric J. v. Betty M.* (1999) 76 Cal.App.4th 715, 721 [presence of miscreants in a particular area may be generally considered a foreseeable risk].) In *Delgado v. Trax Bar & Grill* (2005) 36 Cal.4th 224, which evaluated *Ann M. v. Pacific Plaza Shopping Center*, the California Supreme Court held a sliding-scale balancing formula recognized the imposition of a high burden required heightened foreseeability, while a minimal burden may be imposed upon a showing of a lesser degree of foreseeability. (*Delgado v. Trax Bar & Grill*, 36 Cal.4th at 243.)

Under the sliding-scale balancing formula,

> "First, the court must determine the specific measures the plaintiff asserts the defendant should have taken to prevent the harm. This frames the issue for the court's determination by defining the scope of the duty under consideration. Second, the court must analyze how financially and socially burdensome these proposed measures would be to a landlord, which measures could range from minimally burdensome to significantly burdensome under the facts of the case. Third, the court must identify the nature of the third party conduct that the plaintiff claims could have been prevented had the landlord taken the proposed measures, and assess how foreseeable (on a continuum from a mere possibility to a reasonable probability) it was that this conduct would occur. Once the burden and foreseeability have been independently assessed, they can be compared in determining the scope of the duty the court imposes on a given defendant. The more certain the likelihood of harm, the higher the burden a court will impose on a landlord to prevent it; the less foreseeable the harm, the lower the burden a court will place on a landlord." [Citation.] (*Castaneda v. Olsher* (2007) 41 Cal.4th 1205, 1214; *accord, Tan v. Arnel Management Co.* (2009) 170 Cal.App.4th 1087, 1097-1098.)

Plaintiffs allege Defendant Lucas entered the Los Alamitos Racetrack located at 4961 Katella Avenue, Cypress, CA 90720 ("Race Track") through an unrepaired hole cut in the perimeter fence and that the hole was a breach in the perimeter wall. (Complaint, ¶¶ 16 and 17.) Plaintiffs further allege Demurring Parties breached their duty to Plaintiffs by not repairing a breach in the perimeter fence, despite knowledge of the breach. (*Id.*, ¶¶ 16, 20, 22, and 26-29.) Plaintiffs' Complaint attached a copy of a police report as Exhibit 1 in support of Plaintiffs' claims. The police report states there was a hole in the fence, but also that the officer reviewed surveillance video and saw a male jumping over the retaining wall of the Race Track. (Complaint, Exhibit 1, Pages 4 and 5.) If the facts "appearing in the exhibits contradict those alleged, the facts in the exhibits

		take precedence." (*Holland v. Morse Diesel Intern., Inc.* (2001) 86 Cal.App.4th 1443, 1447.) There are no allegations regarding the insufficiency of the perimeter wall other than the hole, or that Demurring Parties were aware of any deficiencies other than the hole. Accordingly, the general demurrer is sustained with 15 days leave to amend. A demurrer for uncertainty is strictly construed, even where a complaint is in some respects uncertain, because ambiguities can be clarified under modern discovery procedures." (*Khoury v. Maly's of California, Inc.* (1993) 14 Cal.App.4th 612, 616.) Errors and confusion created by "the inept pleader" are to be forgiven if the pleading contains sufficient facts entitling plaintiff to relief. (*Saunders v. Cariss* (1990) 224 Cal.App.3d 905, 908.) A demurrer for uncertainty should be overruled if the facts are presumptively within defendant's knowledge. (*Khoury*, 14 Cal.App.4th at 616.) A party attacking a pleading on "uncertainty" grounds must specify how and why the pleading is uncertain, and where that uncertainty can be found in the challenged pleading. (*Fenton v. Groveland Community Services Dept.* (1982) 135 Cal.App.3d 797, 809, disapproved on other grounds in *Katzberg v. Regents of the University of California* (2002) 29 Cal.4th 300.) Here, the first cause of action is not so unintelligible that Demurring Parties cannot reasonably respond. Any ambiguities can be clarified through discovery. (*Lickiss v. Financial Industry Regulatory Authority* (2012) 208 Cal.App.4th 1125, 1135; *Khoury*, 14 Cal.App.4th at 616.) To the extent Demurring Parties contend the Complaint does not allege whether the contract between the parties is written, oral, or implied, the agreement is not at issue in the sole cause of action alleged against Demurring Parties. Plaintiffs do not allege a contractual duty is expressly provided in the alleged agreement. Demurring Parties also contend Plaintiffs failed to informally resolve the dispute before commencing this action, citing to 4 CCR § 2043. However, section 2043 involves a controversy relating to an agreement. Although the duty alleged arises from Demurring Parties providing barn and stable services, there is no allegation that Demurring Parties owed any contractual duties to Plaintiffs. Accordingly, the demurrer on this ground is overruled. Demurring Parties shall give notice.

10.	2023-1355386 Dean Concrete v. Artist Guild Hotels	Plaintiff's proof of service is defective. Pursuant to Code Civ. Proc., § 1013b(b)(1), proof of electronic service shall include "[t]he electronic service address and the residence of business address of the person making the electronic service." Here, the sender's email address was not included, and consistent with this defective service, no oppositions were filed. The Court will address the need for a continuance, and possible order to file amended POS.
11.	2023-1342773 Son v. Director of DMV	*On its own motion, the Court continues the matter to April 30, 2025, at 10AM, in Department N18.*