

**Superior Court of the State of California
County of Orange**

DEPT C25 TENTATIVE RULINGS

The Honorable Nico A. Dourbetas

Civil Court Reporters: The Court does not provide court reporters for law and motion hearings. Please see the Court's website for rules and procedures for court reporters obtained by the Parties.

Tentative Rulings: The Court will endeavor to post tentative rulings on the Court's website by 4 p.m. on the day before the motion is set to be heard. Do NOT call the Department for a tentative ruling if none is posted. **The Court will NOT entertain a request for continuance or the filing of further documents once a tentative ruling has been posted.**

Submitting on the Tentative Ruling: If ALL counsel intend to submit on the tentative ruling and do not wish oral argument, please advise the Court's clerk or courtroom attendant by calling (657) 622-5225. 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 Ruling and prepare an Order for the Court's signature if appropriate under CRC 3.1312. **Please do not call the Department unless ALL parties submit on the tentative ruling.**

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 whether the tentative ruling shall become the final ruling.

Appearances: Counsel may appear by video on Zoom.

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Date: May 17, 2024

1	Flores vs. General Motors LLC 2023-01362072	1. Demurrer to Complaint 2. Demurrer to Complaint 3. Motion to Strike Portions of Complaint 4. Motion to Strike Portions of Complaint * Demurrer(s) and Motion(s) to Strike vacated. See minute order dated 05/10/2024 (ROA 47). *
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<p>2</p>	<p>FREIFELD vs. HILTON HOTELS CORPORATION</p> <p>2022-01251906</p>	<p>1. Demurrer to Complaint 2. Motion to Strike Portions of Complaint</p> <p>Defendant Hilton Corporation’s demurrer to the 1st through 7th causes of action of the complaint of Ken Freifeld is SUSTAINED in its entirety with 10 days leave to amend. Hilton's alleged status as parent is insufficient to state any cause of action against this Moving Party defendant. There are no allegations as to why Moving Party’s status as a “parent” of the hotel owner gives rise to Moving Party’s liability for the acts or omissions of its purported subsidiaries.</p> <p>The motion to strike is denied as moot.</p> <p>Moving Party shall give notice.</p>
<p>3</p>	<p>Nathan vs. Heckman</p> <p>2022-01279370</p>	<p>1. Demurrer to Amended Complaint 2. Motion to Strike 3. Case Management Conference</p> <p>Demurrer to Second Amended Complaint.</p> <p>Defendants Art Heckman, Stephen Walsh, Compass California, Inc., Compass California III, Inc., and Compass, Inc.’s demurrer to the Second Amended Complaint [SAC] is SUSTAINED as to the 2nd cause of action for unjust enrichment, without leave to amend, and otherwise OVERRULED. (Code Civ. Proc., § 430.10 [authorizing demurrer].)</p> <p>The Court observes that moving parties spend much paper arguing facts outside of the pleadings and/or the merits of plaintiffs’ claims. (Demurrer at 17:17-19:25, 22:14-24:6.) However, it is well settled that a demurrer can be used only to challenge defects that appear on the face of the pleading, or from matters outside the pleading properly subject to judicial notice (Blank v. Kirwan (1985) 39 Cal.3d 311, 318), and that plaintiffs’ allegations must be accepted as true (Del E. Webb Corp. v. Structural Materials Co. (1981) 123 Cal.App.3d 593, 604).</p> <p>Further, the fact that the SAC is a “shotgun” pleading and/or incorporates prior allegations by reference is not grounds for demurrer. To the extent moving parties are arguing that the foregoing renders the SAC uncertain, moving parties have not shown that the SAC is so vague or uncertain that moving parties</p>

		<p>cannot reasonably determine what issues must be admitted or denied, or what counts or claims are directed against them. (Khoury v. Maly's of Calif., Inc. (1993) 14 Cal.App.4th 612, 616.)</p> <p>Moving parties' requests for judicial notice are DENIED as to Item Nos. 1 and 2 (Jolley v. Chase Home Finance, LLC (2013) 213 Cal.App.4th 872, 889); GRANTED as to Item No. 3, limited to the fact that the document was filed, but not of the truth of its contents, given that it was an exhibit to a superseded pleading (Foreman & Clark Corp. v. Fallon (1971) 3 Cal.3d 875, 884); and GRANTED as to Item No. 4, which document is also attached as an exhibit to the current operative SAC (Evid. Code, § 452, subd. (d)).</p> <p>Alter ego.</p> <p>The alter ego allegations are sufficiently pled. (Robbins v. Blecher (1996) 52 Cal.App.4th 886, 892 [elements]; Associated Vendors, Inc. v. Oakland Meat Co. (1962) 210 Cal.App.2d 825, 839-840 ["unity of interest" factors]; SAC, ¶¶ 68, 69 [unity of interest], 32-43, 50-56, 60, 62, 64, 65, 71-73, 93-99 [that failure to disregard the corporate entity would sanction a fraud or promote injustice].)</p> <p>Conspiracy.</p> <p>The conspiracy allegations are sufficiently pled. (Mosier v. Southern California Physicians Insurance Exchange (1998) 63 Cal.App.4th 1022, 1048 [elements]; SAC, ¶¶ 32-43, 50-56, 60-62, 64, 65, 71-73, 77, 93-99 [formation/operation of conspiracy, overt acts], 82, 83 [proximately caused damages].)</p> <p>1st cause of action: breach of fiduciary duty.</p> <p>This cause of action states sufficient facts. (LaMonte v. Sanwa Bank California (1996) 45 Cal.App.4th 509, 517 [elements]; SAC, ¶¶ 22, 25, 55, 100, 113, 128, 132, 133, 158-165, 183-186, 188-190, 201 [existence of fiduciary duty]; ¶¶ 31, 36-38, 40, 55, 58, 60, 67-72, 101-102, 135-155, 192-200, 203-207 [breach via misrepresentation and concealment of material facts, not limited to statements regarding property values, interest rates, or an alleged "kickback," but also misrepresentation and/or failure to disclose the relationship between the various "Compass" entities, failing/refusing plaintiffs' instructions to issue notices</p>
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		<p>to perform, failing to disclose Walsh's role, and failing to properly supervise Heckman and Walsh]; ¶¶ 180, 202, 208, 209 [proximately caused damages].)</p> <p>Whether statements regarding property values and/or interest rates are inactionable opinion, or whether the alleged "kickback" was a proper seller credit, do not defeat this cause of action, which is valid on the basis of other alleged misrepresentations. (Quelimane Co., Inc. v. Stewart Title Guar. Co. (1998) 19 Cal.4th 26, 38-39 [any valid cause of action overcomes general demurrer]; 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"].)</p> <p>2nd cause of action: unjust enrichment.</p> <p>This cause of action fails to state sufficient facts, as there is no cause of action for unjust enrichment in California. (Melchior v. New Line Productions, Inc. (2003) 106 Cal.App.4th 779, 794.) Plaintiffs concede the demurrer in this respect; accordingly, leave to amend as to this cause of action is DENIED.</p> <p>3rd cause of action: negligent misrepresentation.</p> <p>This cause of action states sufficient facts. (Small v. Fritz Companies, Inc. (2003) 30 Cal.4th 167, 173-174, 184 [elements; specific pleading required]; SAC, ¶¶ 15, 119, 122, 221(a), 223 [misrepresentations regarding Heckman's background and experience], ¶¶ 23-43, 50-56, 62, 83, 93-96, 99, 102-106, 110, 111, 120, 126, 221(b), 221(g), 222 [misrepresentations regarding the relationship between the various "Compass" entities], ¶¶ 132, 221(c), 223(B)(1)-(2) [misrepresentations regarding Walsh's role], ¶¶ 143, 150, 221(f), 223(A)(6) [misrepresentations regarding plaintiffs' ability to cancel the RPA with the Kellers]; ¶¶ 220, 221 [scienter]; ¶¶ 120, 123, 124, 132, 133, 134, 139, 143, 224 [reliance]; ¶¶ 180, 225-227 [proximately caused damages].)</p> <p>4th cause of action: violation of Penal Code, § 496, subd. (c).</p> <p>This cause of action states sufficient facts, as it is based on the same facts underlying the first cause of action for fraud. (Penal Code, § 496, subds. (a), (c) [permitting civil action against person who knowingly</p>
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		<p>“receives any property ... that has been obtained in any manner constituting theft or extortion”]; Penal Code, § 484 [defining “theft” as including “by any false or fraudulent representation or pretense, defraud[ing] any other person of money”].)</p> <p>5th cause of action: general negligence.</p> <p>This cause of action states sufficient facts, as it is based on the same facts as plaintiffs’ causes of action for breach of fiduciary duty and negligent misrepresentation. (Ladd v. County of San Mateo (1996) 12 Cal.4th 913, 917 [elements]; Perry v. Robertson (1988) 201 Cal.App.3d 333, 340 [pleading alternative theories of liability based on the same facts].)</p> <p>6th cause of action: negligent supervision or retention:</p> <p>This cause of action alleges sufficient facts. (Lopez v. Watchtower Bible & Tract Society of New York, Inc. (2016) 246 Cal.App.4th 566, 591 [elements]; SAC, ¶¶ 254-259, 261 [Heckman and Walsh were incompetent]; ¶¶ 131, 165-173, 198, 199, 200, 259 260, 262, 263 [actual and/or constructive knowledge of unfitness/incompetence]; ¶¶ 180, 264-268 [proximately caused damages].)</p> <p>7th cause of action: fraud in the inducement:</p> <p>This cause of action alleges sufficient facts. (Lazar v. Superior Court (1996) 12 Cal.4th 631, 638, 645 [elements; specific pleading]; SAC, ¶¶ 15, 119, 122, 221(a), 223, 276(A)(1)-(3)) [misrepresentations regarding Heckman’s background and experience], ¶¶ 23-43, 50-56, 62, 83, 93-96, 99, 102-106, 110, 111, 120, 126, 221(b), 221(g), 222, 275 [misrepresentations regarding the relationship between the various “Compass” entities], ¶¶ 132, 221(c), 223(B)(1)-(2), 276(A)(5)), 276(B)(1)-(2) [misrepresentations regarding Walsh’s role], ¶¶ 143, 150, 221(f), 223(A)(6), 276(A)(6) [misrepresentations regarding plaintiffs’ ability to cancel the RPA with the Kellers]; ¶¶ 220, 221, 272, 277, and 278 [scienter]; ¶¶ 120, 123, 124, 132, 133, 134, 139, 143, 224, 279-283 [reliance]; ¶¶ 180, 225-227, 280, 284, 285 [proximately caused damages].)</p> <p>8th cause of action: violation of CA Bus. & Prof Code § 17200, et seq.:</p>
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		<p>This cause of action states sufficient facts, as it is based on the same facts underlying plaintiff's claims for breach of fiduciary duty and misrepresentation. (Ingels v. Westwood One Broadcasting (2005) 129 Cal.App.4th 1050, 1060 [UCL claim dependent on valid underlying predicate].) Further, the SAC validly alleges plaintiffs lost money or property so as to confer standing. (SAC, ¶¶ 180, 225-227, 280, 284, 285.)</p> <p>9th cause of action: false and misleading advertising CA Bus. & Prof Code § 17500, et seq.</p> <p>Moving parties contend this cause of action fails because: (1) plaintiffs do not allege they reviewed the "Compass" website; (2) plaintiffs are mischaracterizing the website contents; and (3) the alleged misrepresentations regarding whether "Compass" is licensed in CA are not "material." (Demurrer at 36:27-37:16.) The first is inaccurate. (See SAC, ¶ 120.) The second argues facts outside the pleadings. The third is irrelevant, as the FAL does not require the misleading advertising to address "material" facts, but only requires that it is "untrue" or misleading." (Bus. & Prof. Code, § 17500.)</p> <p>10th cause of action: concealment:</p> <p>This cause of action states sufficient facts. Roddenberry v. Roddenberry (1996) 44 Cal.App.4th 634, 665-666 [elements]; SAC, ¶¶ 22, 25, 55, 100, 113, 128, 132, 133, 158-165, 183-186, 188-190, 201 [duty to disclose]; ¶¶ 31, 36-38, 40, 55, 58, 60, 67-72, 101-102, 135-155, 192-200, 203-207, 373, 375 [intentional concealment of material facts, including misrepresentation and/or failure to disclose the relationship between the various "Compass" entities, and failing to disclose Walsh's role]; ¶¶ 120, 123, 124, 132, 133, 134, 139, 143, 224, 279-283, 376-378 [reliance]; ¶¶ 180, 202, 208, 209, 379 [proximately caused damages].)</p> <p>11th cause of action: violation of CA Civ. Code § 1750, et seq.</p> <p>While moving parties are correct that the Consumer Legal Remedies Act does not apply to real estate transactions, this cause of action is not based on the real estate purchase/sale, but on defendants' allegedly misleading marketing scheme regarding the various</p>
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		<p>"Compass" entities, and their ability (or lack thereof) to provide broker services. (SAC, ¶¶ 387-391; Quelimane Co., Inc. v. Stewart Title Guar. Co, supra at 38-39 [any valid cause of action overcomes general demurrer]; PH II, Inc. v. Superior Court, supra at 1682 ["demurrer does not lie to a portion of a cause of action"].)</p> <p>Motion to Strike.</p> <p>Given the ruling above largely overruling the demurrer, defendants' motion to strike is DENIED. (Code Civ. Proc., §§ 435, 436 [authorizing motion]; Stevens v. Superior Court (1986) 180 Cal.App.3d 605, 610 [" [a] fraud cause seeking punitive damages need not include an allegation that the fraud was motivated by the malicious desire to inflict injury ... [t]he pleading of fraud is sufficient"]; Penal Code, § 496, subd. (c) [treble damages]; Snatchko v. Westfield LLC (2010) 187 Cal.App.4th 469, 497 [no point is served in striking attorney fee allegations, as "there was no requirement they be pled at all"].)</p> <p>Moving parties shall file an Answer to the SAC within 20 days.</p> <p>***CMC is continued to May 5, 2025 at 9 AM.***</p> <p>Plaintiffs shall give notice of all the above.</p>
4	<p>Evans vs. Cardlytics, Inc. 2023-01308682</p>	<p>Demurrer to Cross-Complaint</p> <p>* Motion vacated. See minute order dated 04/26/2024 (ROA 50). *</p>
5	<p>Jane Doe A.A. vs. Doe #1 2022-01291123</p>	<p>Demurrer to Complaint</p> <p>Defendant Anaheim Union High School District's demurrer to the 1st, 2nd and 3rd causes of action of the complaint of Jane Doe A.A. is OVERRULED.</p> <p>Defendant has not provided any binding authority that clearly shows plaintiff's claims are time barred.</p> <p>Defendant to file and serve an answer within 20 days.</p> <p>Moving Party argues that AB 218, the statute which permits a plaintiff to bring a claim for childhood sexual</p>

		<p>assault where the claim presentation requirements are untimely, is unconstitutional because it constitutes a prohibited "gift" of public funds to the victim of the alleged assault.</p> <p>Moving Party supports its arguments by pointing to several recently filed writs addressing the issue of whether AB 218 constitutes an unlawful gift of public funds as applied to claims against public entities for childhood sexual abuse. (See exhibits to RJN, ROA #42.) But the outcome of those writs has yet to be determined. There is absolutely no binding authority which indicates this plaintiff's claims are barred for failure to timely file a government claim.</p> <p>In support of its argument, Moving Party cites to the case of Rubenstein v. Doe No. 1 (2017) 3 Cal.5th 903, 914. Moving Party contends that court held the Legislature may only remove the government torts claims requirement prospectively, and government tort claims are no longer required for sexual misconduct "allegedly occurring on or after January 1, 2009." (Rubenstein v. Doe No. 1 (2017) 3 Cal.5th 903, 914.) Moving Party further argues the Supreme Court in Shirk said that the revival provision could not apply to public entities. (Shirk v. Vista Unified Sch. Dist. (2007) 42 Cal.4th 201, 212.)</p> <p>However, Rubenstein has been superseded by Assembly Bill no 218 (2019-2020 Reg.Sess.) (Assembly Bill No. 218) in 2019. This bill made several changes to CCP section 340.1, including providing a three-year revival window for lapsed claims, which included relief from the claim presentation deadlines within the Government Claims Act. Los Angeles Unified School Dist. v. Superior Court (2023) 14 Cal.5th 758.</p> <p>Prior to this, the Rubenstein court had ruled that the delayed discovery principles in section 340.1 did not toll the period in which to present a claim. Coats v. New Haven Unified School District (2020) 46 Cal.App.5th 415. The Los Angeles Unified School Dist. case, supra, deals with the changes brought on by 218 and marked a significant development in the law surrounding claims for childhood sexual assault against public entities. It effectively broadened the scope for victims to seek compensation, alleviating some of the stringent time restrictions that had previously been in place.</p>
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6	<p>Roach vs. California Department of Transportation (Cal-Trans)</p> <p>2022-01263316</p>	<p>Motion to Compel Further Responses to Form Interrogatories</p> <p>* Motion vacated per Notice of Taking Motions Off Calendar (ROA 285). See minute order dated 05/09/2024 (ROA 297). *</p>
7	<p>Powell vs. Rescue California – To Support the Recall of Gavin Newsom</p> <p>2021-01229805</p>	<p>Demurrer to Amended Complaint</p> <p>Request for Judicial Notice</p> <p>Defendants Gilliard Blanning & Associates, Inc., David Gilliard, and Natalie Blanning Weber ("Moving Defendants") request that the Court take judicial notice of the First Amended Complaint filed on 10/25/23 in this action. The Court takes judicial notice of the fact that the First Amended Complaint was filed on 10/25/23.</p> <p>Demurrer to First Amended Complaint</p> <p>Moving Defendants' demurrer to the First Amended Complaint is SUSTAINED with leave to amend.</p> <p>Plaintiff shall have 20 days to file and serve a Second Amended Complaint.</p> <p>Unjust Enrichment: The demurrer to the Fifth Cause of Action, for Unjust Enrichment, is SUSTAINED with leave to amend. Moving Defendants argue that "unjust enrichment is not a stand-alone cause of action. (ROA No. 101 at pp. 9-10) The authority Moving Defendants cite, however, provides in relevant part: "Unjust enrichment is synonymous with restitution. [citations] There are several potential bases for a cause of action seeking restitution. For example, restitution may be awarded in lieu of breach of contract damages when the parties had an express contract, but it was procured by fraud or is unenforceable or ineffective for some reason. [Citations] Alternatively, restitution may</p>

		<p>be awarded where the defendant obtained a benefit from the plaintiff by fraud, duress, conversion, or similar conduct. In such cases, the plaintiff may choose not to sue in tort, but instead to seek restitution on a quasi-contract theory..." (Durell v. Sharp Healthcare (2010) 183 Cal.App.4th 1350, 1370.)</p> <p>Plaintiff pleads a cause of action for unjust enrichment as an alternative theory of liability to the other causes of action alleged in the FAC. "When a pleader is in doubt about what actually occurred or what can be established by the evidence, the modern practice allows that party to plead in the alternative and make inconsistent allegations." (Mendoza v. Continental Sales Co. (2006) 140 Cal.App.4th 1395, 1402.)</p> <p>The demurrer fails to establish that the unjust enrichment cause of action stated by Plaintiff "stands alone" and thus, fails to establish that unjust enrichment, as pleaded in the FAC is not a cause of action. However, the only other cause of action alleged against Moving Defendants is the Sixth Cause of Action. Since the demurrer to that cause of action has been sustained with leave to amend, the cause of action for unjust enrichment stands alone, and thus is not a valid cause of action. Since this defect can be cured by amendment, Plaintiff is granted 20 days leave to file a Second Amended Complaint.</p> <p>Violation of Cal. Pen. Code §496: The demurrer to the Sixth Cause of Action for Violation of Cal. Pen. Code §496 is SUSTAINED with leave to amend. Moving Defendants argue that this cause of action is barred by the applicable statute of limitations. The FAC does not "clearly and affirmatively" show that the claim is barred by the statute of limitations based upon the dates alleged and is therefore not subject to demurrer. (See Marshall v. Gibson, Dunn & Crutcher (1995) 37 Cal.App.4th 1397, 1403.)</p> <p>This is because an amendment that identifies a "Doe" defendant relates back to the date of commencement of the action for purposes of statute of limitations. (See Hahn v. New York Ari Brake LLC (2022) 77 Cal.App.5th 895, 897-898 ["Section 474 allows a plaintiff who is ignorant of a defendant's identity to commence suit – before the statute of limitations runs – by using a fictitious name for that defendant and then amending her complaint when the defendant's true name is discovered..."] [citing Austin v.</p>
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		<p>Massachusetts Bonding & Insurance Co. (1961) 56 Cal.2d 596, 602-603].)</p> <p>Moreover, the relation back doctrine applies against a Doe defendant for any new claims alleged in an amended complaint, so long as the new claims result upon the same general facts as the original. (Austin, Supra. 56 Cal.2d at 600.)</p> <p>Moving Defendants argue that since Plaintiff did not comply with the requirements of Cal. Code Civ. Proc. §474 in substituting Moving Defendants into the lawsuit as Doe Defendants that Plaintiff cannot invoke the relation back doctrine to rescue his claims. However, it is well established that a defective substitution of a Doe Defendant into an amended complaint is considered a procedural defect that may be cured by amendment so that the amended pleading may relate back to the filing of the original complaint. (See Streicher v. Tommy's Elec. Co. (1985) 164 Cal.App.3d 876, 884-885.) Accordingly, Plaintiff shall be granted leave to file a Second Amended Complaint that identifies Moving Defendants as Doe defendants, as Plaintiff had originally intended to do.</p> <p>***Trial currently set for November 18, 2024 is continued to August 25, 2025 at 9 AM. All discovery dates and deadlines are according to the new trial date.</p> <p>Moving Defendants shall give notice of all the above.</p>
8	<p>Sellers vs. Student Movers, Inc</p> <p>2023-01359549</p>	<p>Demurrer to Complaint</p> <p>Defendant Student Movers, Inc.'s demurrer to the complaint of Jason and Tracey Sellers is SUSTAINED in its entirety. Plaintiffs have failed to allege sufficient facts to put defendant on notice of the claims asserted against it.</p> <p>Plaintiffs have 10 days leave to amend.</p>
9	<p>Ragland vs. Wells Fargo, N.A.</p> <p>2020-01137118</p>	<p>1. Motion for Reconsideration 2. Motion to Set Aside/Vacate 3. Trial Setting Conference</p> <p>Motion for Reconsideration.</p>

		<p>Plaintiff Pam Ragland's motion for reconsideration of the Court's 1-30-24 order dismissing defendants Deanna Allen, Alastair Rockwell Allen, and Adrianna R. Allen pursuant to Code Civ. Proc., § 583.210, subd. (a), is DENIED. (Code Civ. Proc., § 1008 [authorizing reconsideration].)</p> <p>Defendants' evidentiary objection to Para. 3 of the Ragland Decl., reading "when Sunyata used the second fraudulent transfer to claim the right to evict us" is SUSTAINED (relevance, improper legal argument). Defendants' remaining evidentiary objections are OVERRULED.</p> <p>The Court lacks jurisdiction to reconsider its 1-30-24 order, as a judgment of dismissal has since been entered as to these defendants. (Safeco Ins. Co. of Illinois v. Architectural Facades Unlimited, Inc. (2005) 134 Cal.App.4th 1477, 1483.)</p> <p>Even if the Court had jurisdiction to consider the motion, it would still be denied, as plaintiff has not shown any new or different facts or law, nor presented any evidence as to why any purportedly new or different facts or law could not have been presented earlier. (Garcia v. Hejmadi (1997) 58 Cal.App.4th 674, 690 [moving party must present "a satisfactory explanation for failing to provide the evidence earlier, which can only be described as a strict requirement of diligence;" facts which were "always within [the] possession" of the moving party are not "new" facts]; Baldwin v. Home Sav. of America (1997) 59 Cal.App.4th 1192, 1196 [legal authority predating the challenged ruling, which "could therefore have been provided the trial court prior to its initial ruling," cannot be considered "new" law justifying reconsideration]; Gilberd v. AC Transit (1995) 32 Cal.App.4th 1494, 1500 [arguments that court "misinterpreted" applicable law not grounds for reconsideration].)</p> <p>Specially appearing defendants Deanna Allen, Alastair Rockwell Allen, and Adrianna R. Allen shall give notice.</p> <p>Motion to Vacate.</p> <p>Plaintiff Pam Ragland's motion to vacate the anti-SLAPP order and judgment in favor of defendants Sunyata, LLC and Alexander Allen, pursuant to Code Civ. Proc., § 437, subd. (d), is DENIED.</p>
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		<p>Plaintiff has not shown that the order or judgment were void, i.e. that the Court lacked jurisdiction over the parties or subject matter. (People v. American Contractors Indemnity Co. (2004) 33 Cal.4th 653, 660-661.) Rather, the order and judgment were at best voidable, not void. (Id.)</p> <p>As more than six months have passed since the anti-SLAPP motion and judgment were entered, relief is only available under the court's equitable powers to set aside an order based on extrinsic fraud or mistake. (Aldrich v. San Fernando Lumber Co. (1985) 170 Cal.App.3d 725, 737; Rappleyea v. Campbell (1994) 8 Cal.4th 975, 982.) A motion to set aside an order or judgment under the court's equitable powers must show: (1) a meritorious case; (2) a satisfactory excuse for not presenting the facts earlier; (3) diligence in seeking to set aside the order once the facts were discovered. (Stiles v. Wallis (1983) 147 Cal.App.3d 1143, 1147-1148.) Here, even assuming plaintiff's declaration and exhibits are sufficient to establish the merits of her underlying claims, or even a meritorious defense to the anti-SLAPP motion, plaintiff has not shown a satisfactory excuse for not presenting the facts earlier, nor diligence in seeking to set aside the order once the facts were discovered. (Id.)</p> <p>Plaintiff's alternative request for a stay of enforcement is also DENIED. (Code Civ. Proc., § 918.5.)</p> <p>Defendants' request for attorney fees pursuant to Code Civ. Proc., § 425.16, subd. (c), is DENIED.</p> <p>***Trial setting conference is continued to October 18, 2024 at 9:30 AM.</p> <p>Defendants Sunyata, LLC and Alexander Allen shall give notice of all the above.</p>
10	<p>Ragland vs. Wells Fargo, N.A.</p> <p>2023-01315821</p>	<p>Case Management Conference</p> <p>***CMC is continued to October 18, 2024 at 9:30 AM***</p> <p>Plaintiff is ordered to give notice.</p>