

Tentative Rulings for June 22, 2026 Department 2

**To request oral argument, you must notify Judicial Secretary
Crystal Marias at (760) 904-5722
and inform all other counsel no later than 4:30 p.m.**

This court follows California Rules of Court, Rule 3.1308 (a) (1) for tentative rulings (see Riverside Superior Court Local Rule 3316). Tentative Rulings for each law & motion matter are posted on the Internet by 3:00 p.m. on the court day immediately before the hearing at [Riverside Superior Court-Tentative Rulings](#). If you do not have Internet access, you may obtain the tentative ruling by telephone at (760) 904-5722.

To request oral argument, no later than 4:30 p.m. on the court day before the hearing you must (1) notify the judicial secretary for Department 2 at (760) 904-5722 and (2) inform all other parties of the request and of their need to appear remotely, as stated below. If no request for oral argument is made by 4:30 p.m., the tentative ruling **will become the final ruling** on the matter effective the date of the hearing. **UNLESS OTHERWISE NOTED, THE PREVAILING PARTY IS TO GIVE NOTICE OF THE RULING.**

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You may also make a Telephonic Appearance: On the day of the hearing, call into one of the below listed phone numbers, and input the meeting number (followed by #):

- Call-in Numbers: 1-833-568-8864 (Toll Free), 1-669-254-5252,
1-669-216-1590, 1-551-285-1373 or 1-646-828-7666
- Meeting Number: **161 143 8184**

Please **MUTE** your phone until your case is called and it is your turn to speak. It is important to note that you must call fifteen (15) minutes prior to the scheduled hearing time to check in or there may be a delay in your case being heard.

Riverside Superior Court provides official court reporters for hearings on law and motion matters only for litigants who have been granted fee waivers and only upon their timely request. (See General Administrative Order No. 2021-19-1) Other parties desiring a record of the hearing must retain a reporter pro tempore.

1.

CASE #	CASE NAME	HEARING NAME
CVME2515647	HERTENSTEIN VS BRADLEY ROAD HOLDINGS LLC	MOTION TO COMPEL ARBITRATION

Tentative Ruling: Plaintiff's evidentiary objections **overruled**.

Defendant has not demonstrated that any arbitration agreement exists between the parties. Accordingly, the **MOTION is DENIED**

Proof of Service is proper

Plaintiff Catherine Hertenstein alleges she was subjected to substandard care at Sun City Gardens, a senior residential facility in Menifee, California. Plaintiff alleges elder abuse, neglect, and negligence arising from eight falls she sustained at the facility. Plaintiff also repeatedly left the facility unsupervised, which is dangerous given her dementia and high risk of falling.

When Plaintiff first became a resident of the facility, her Power of Attorney, Danielle Selisker¹, executed a Residence and Care Agreement on behalf of Plaintiff. This agreement contained an arbitration clause that Defendant argues is applicable and covers Plaintiff's claims. Defendant brings the instant motion to compel arbitration arguing the agreement is valid, applicable to Plaintiff's claims, and is not unconscionable.

In her Opposition, Plaintiff argues no valid agreement to arbitrate exists because the general Power of Attorney appointing Danielle Selisker excluded powers related to "claims and litigation," so Selisker did not have authority to bind Plaintiff's claims to arbitration. Second, Plaintiff argues given her advanced age of 100 years, the motion must be denied so Plaintiff's claims can be decided within 120 days pursuant to CCP §36(a). Finally, Plaintiff argues the motion must be denied because the Arbitration Agreement is unenforceable due to unconscionability in its terms and formation.

In Reply, Defendant argues Plaintiff's trial preference argument is speculative and does not provide a basis to deny the motion. Defendant further argues Selisker possessed the authority to execute the Arbitration Agreement on Plaintiff's behalf. Finally, Defendant argues the agreement is not unconscionable.

Upon the motion of a party to an agreement to arbitrate, the court must grant a petition to compel arbitration unless it finds: no written agreement to arbitrate exists; the right to compel arbitration has been waived; grounds exist for revocation of the agreement; or litigation is pending that may render the arbitration unnecessary or create conflicting rulings on common issues. (CCP § 1281.2.) A proceeding to compel arbitration is in essence a suit in equity to compel specific performance of a contract. (*Freeman v. State Farm Mutual Auto Insurance Co.* (1975) 14 Cal.3d 473, 479.) The

¹ Danielle Selisker is Plaintiff's granddaughter.

petition/motion to compel must set forth the provisions of the written agreement and the arbitration clause verbatim, or such provisions must be attached and incorporated by reference. (CRC 3.1330; see also *Condee v. Longwood Mgmt. Corp.* (2001) 88 Cal.App.4th 215, 218-19.)

“In ruling on a petition to compel arbitration, the trial court may consider evidence on factual issues relating to the threshold issue of arbitrability . . . Parties may submit declarations when factual issues are tendered with a motion to compel arbitration.” (*Engineers & Architects Assn. v. Community Development Dept.* (1994) 30 Cal.App.4th 644, 653.) In the summary proceedings on a motion to compel arbitration, “the trial court sits as a trier of fact, weighing all the affidavits, declarations, and other documentary evidence, as well as oral testimony received at the court’s discretion, to reach a final determination.” (*Engalla v. Permanente Medical Group, Inc.* (1997) 15 Cal.4th 951, 972.)

Plaintiff’s Evidentiary Objections

Plaintiff makes seven (7) objections to Defendant’s evidence submitted in support of the motion. Plaintiff objects to various sentences and both exhibits attached to the Patricia Russell declaration. All statements and exhibits are supported by Russell’s personal knowledge and proper foundation has been laid. To that end, these objections are overruled.

I. Existence of an Arbitration Agreement

The party seeking to compel arbitration has the burden of proving the existence of a valid arbitration agreement by a preponderance of the evidence. (CCP § 1281.2; *Ruiz v. Moss Bros. Auto Group* (2014) 232 Cal.App.4th 836, 842.) California Rules of Court, Rule 3.1330 provides that a party seeking to compel arbitration must attach a copy of the agreement to the petition or the petition must set forth the provisions of the agreement. The moving party needs only to allege the existence of an agreement, and once they have done so the burden shifts to the responding party to prove the falsity of the purported agreement. (*Condee v. Longwood Management Corp.* (2001) 88 Cal.App.4th 215, 219.)

Defendant provides the declaration of Patricia Russell, administrator at Sun City Gardens. Russell provides a copy of the Residence and Care Agreement signed by Danielle Selisker on behalf of Plaintiff. (Russell Decl. ¶3, Ex. A.) Russell also provides a copy of the Power of Attorney pertaining to Plaintiff designating Danielle Selisker as her power of attorney. (Russell Decl. ¶5, Ex. B.) The Arbitration Agreement says, in relevant part:

The Parties agree that in the event claims or disputes cannot be resolved pursuant to Section A, above, unless expressly prohibited by law, any action, claim, dispute or controversy of any kind, whether in contract or in tort, statutory or common law, personal injury, property damages, legal or equitable or otherwise, arising from or related to the Residency Agreement or the Resident’s residency, care, or services at Community, including

disputes involving the scope of this Arbitration Agreement, or other dispute involving acts or omissions that cause damage or injury to either Party...SHALL BE RESOLVED EXCLUSIVELY BY BINDING ARBITRATION AND NOT BY LAWSUIT OR RESORT TO THE JUDICIAL PROCESS..."

The Agreement is signed by Danielle Selisker on behalf of Catherine Hertenstein and dated February 16, 2023. Defendant has met its initial burden to show the existence of an arbitration agreement between the parties.

In Opposition, Plaintiff argues Selisker did not have the authority to bind Plaintiff's claims to arbitration. Specifically, Plaintiff argues the plain language of the Power of Attorney indicates Selisker had no actual written authority to waive Plaintiff's right to a jury trial because it excludes powers relating to "claims and litigation." The General Power of Attorney form Plaintiff executed chose four (4) of the ten (10) listed powers: "goods and services transactions;" "banking transactions;" "insurance transactions;" and "personal relationships and affairs." (Russell Decl. Ex. B.) Plaintiff notes the power titled "claims and litigation" was not selected, meaning Plaintiff specifically chose not to imbue Selisker with this power.

Plaintiff relies on the recent California Supreme Court case, *Harrod v. Country Oaks Partners, LLC* (2024) 15 Cal.5th 939 (*Harrod*), as governing the authority provided by a Power of Attorney for signing arbitration agreements.

The issue in *Harrod* concerned whether a Health Care Power of Attorney authorized a patient's nephew, who was appointed as his health care agent under the Power of Attorney, to sign an arbitration agreement on behalf of the patient. The Court found that it did not, because arbitration is not a healthcare decision. In coming to its conclusion, the Court distinguished the Health Care Power of Attorney from a Uniform Statutory Form Power of Attorney. The Court noted, contrary to Health Care Decisions Law:

The Uniform Statutory Form Power of Attorney Act offers a form that lists categories of statutorily defined powers that a principal may choose to delegate. (§§ 4400, 4401, 4450–4463.) By placing initials next to a listed, pre-defined power, the principal may authorize an agent to act in "any lawful way with respect to the ... initialed subjects," which include real or personal property transactions, banking transactions, business operating transactions, beneficiary transactions, claims and litigation, or personal and family maintenance. (§ 4401.) The preamble to the form states, "THIS DOCUMENT DOES NOT AUTHORIZE ANYONE TO MAKE MEDICAL AND OTHER HEALTH-CARE DECISIONS FOR YOU." (§ 4401; see Stats. 1994, ch. 307, § 16.) This admonition dovetails with the Legislature's prescription that the Power of Attorney Law applies to "statutory form powers of attorney" but not to "powers of attorney for health care" under the Health Care Decisions Law. (§ 4050, subd. (a)(1)–(2); see Stats. 1999, ch. 658, § 27, p. 4853.)

Looking at the definitions of the powers selectable under the Uniform Statutory Form Power of Attorney Act — powers the statute distinguishes from health care decisions — there are notable inclusions. For instance, the power to make decisions about “personal and family maintenance” includes the power to “[p]ay for ... necessary medical, dental, and surgical care, hospitalization, and custodial care.” (§ 4460, subd. (a)(3).) The power to make decisions about “claims and litigation,” moreover, includes the power to “submit to arbitration ... with respect to a claim or litigation” and to “execute and file or deliver a ... waiver, ... agreement, or other instrument in connection with the prosecution, settlement, or defense of a claim or litigation.” (§ 4459, subds. (d), (e).) Additionally, for each power granted in a statutory form power of attorney — be it a power over personal maintenance or other matters — the agent is separately authorized, in exercising power for that subject, to do a variety of things, including to “[p]rosecute, defend, submit to arbitration, settle, and propose or accept a compromise with respect to, a claim existing in favor or against the principal,” and to “do any other lawful act with respect to the subject.” (§ 4450, subds. (b), (d), (j).)

(*Harrod, supra*, 15 Cal.5th at 956 [emphasis added].)

The Court also stated: “[w]e first note the Legislature’s specific references in the Uniform Statutory Form Power of Attorney Act to an agent’s power to settle claims or submit claims to arbitration. Such references are absent from the Health Care Decisions Law.” (*Id.* at 956–957.)

Harrod found the execution of the arbitration agreement in connection with a residential facility admissions process was not a health care decision within the health care agent’s authority. Here, Plaintiff did not execute a health care power of attorney so the facts of *Harrod* are distinguishable. The Power of Attorney form used in this case is titled “General Power of Attorney.” As noted above, the form lists ten (10) separate powers that can each be checked individually to tailor the form to the principal’s wishes. The form states: “The powers chosen below shall have the full force and effect given to them by their full enumeration as laid out in the text of the Power of Attorney Act of the laws of the State of California.” Additionally, “California” is handwritten on an empty line to allow the form to be tailored to different states. The form also states in a pre-printed paragraph at the beginning: “This document does not authorize anyone to make medical or other health care decisions for you.” (Russell Decl. Ex. B.) Most importantly, the specific line for the power over “claims and litigation” is unchecked meaning Plaintiff did not intend to authorize Selisker to have that power. (*Ibid.*)

Defendant cites three cases in Reply: *Garrison v. Superior Court* (2005) 132 Cal.App.4th 253 (*Garrison*); *Hogan v. Country Villa Health Services* (2007) 148 Cal.App.4th 259 (*Hogan*); and *Gordon v. Atria Management Co., LLC* (2021) 70 Cal.App.5th 1020 (*Gordon*). Importantly, *Harrod* disapproved of both *Garrison* and *Hogan*. In discussing *Garrison* and *Hogan*, *Gordon* made the following observation: “Those cases merely tell us that a health care power of attorney is sufficient to confer

authority to agree to an arbitration provision within an admission agreement...” (*Gordon, supra*, 70 Cal.App.5th at 1030.)

Again, Plaintiff did not execute a health care power of attorney. In fact, the General Power of Attorney Plaintiff signed specifically says it does not authorize anyone to make medical or other health care decisions for Plaintiff. In *Gordon*, the operative durable power of attorney advised it did not authorize anyone to make medical or health care decisions on the principal’s behalf, but it did specifically empower the agent to “demand, arbitrate, and pursue litigation on [principal’s] behalf concerning all rights and benefits to which [principal] may be entitled...” (*Gordon, supra*, 70 Cal.App.5th at 1022-1023.) There is no such designation in the power of attorney form at play in the instant matter.

The only powers Plaintiff delegated to Selisker were the powers over goods and services transactions, banking transactions, insurance transactions, and personal relationships and affairs. Defendant has not provided any authority that demonstrates Selisker had the authority within these four specific grants of power to bind Plaintiff to an arbitration agreement in connection with her residence at Defendant’s facility. The only authority Defendant cites in support of its arguments – *Gordon, Garrison, and Hogan* – are factually distinguishable and do not support granting the instant motion.

Since the executed General Power of Attorney did not grant Selisker the power to either make health care decisions for Plaintiff or make decisions relating to “claims and litigation,” Selisker did not have authority to sign the arbitration agreement on Plaintiff’s behalf. As a result, there is no arbitration agreement between the parties.

The parties also discuss the delegation clause in the arbitration agreement itself. Defendant argues if there is any dispute about whether the agreement is enforceable, this Court must still order the parties to arbitration so the arbitrator can decide the issue of enforceability. However, since there is no arbitration agreement between the parties, the court need not consider the delegation clause or its effect.

2.

CASE #	CASE NAME	HEARING NAME
CVR12404340	LAFAYETTE FEDERAL CREDIT UNION VS LIYANAPATABENDY	MOTION TO ENTER JUDGMENT PURSUANT TO CCP § 664.6

Tentative Ruling:

DENIED: No showing the Court reserved jurisdiction to enforce settlement pursuant to CCP 664.6..

3.

CASE #	CASE NAME	HEARING NAME
CVRI2406306	SPARKS VS CITY OF MORENO VALLEY	MOTION FOR SUMMARY JUDGMENT ON COMPLAINT

Tentative Ruling:

Moving party: Defendant City of Moreno Valley
Responding party: Plaintiff Rosalyn Sparks

MOTION DENIED

Proof of service is proper

This is an action for personal injury. Plaintiff Rosalyn Sparks (“Plaintiff”) alleges that her walker caught on an uneven edge on Defendant City of Moreno Valley’s (“Defendant” or “City”) property that caused her to fall on 12/17/23. The operative complaint, filed 11/8/24, asserts a single cause of action for premises liability against the City and other public entities, pursuant to Govt. Code §§ 835 and 815.2. Plaintiff alleges that Defendant negligently maintained the premises at or near Cottonwood Avenue and Elsworth Street by allowing an “uneven, broken, deteriorating and/or raised portion of the pavement and/or sidewalk” to exist, “be left in disrepair,” and failed to “barricade the area and/or to warn” of the danger. Trial is set for 7/24/26.

Defendant now moves for summary judgment, arguing that there is a “fatal factual variance” between Plaintiff’s government claim and her subsequent deposition testimony. Defendant asserts that both the claim and the complaint described the dangerous condition as an “uneven, broken, raised and/or deteriorating portion of the pavement and/or roadway.” It asserts that a photograph attached to the claim form shows the broken asphalt roadway. However, in her 7/1/25 deposition, Plaintiff testified that she did not fall on the roadway, but rather where a dirt path transitioned to an adjacent sidewalk. Defendant argues that this change in the description of the location deprived it of the opportunity to investigate. It also argues that the inconsistent description negates the causation element of Plaintiff’s claim, and that the dangerous condition alleged in the claim was *not* the cause of Plaintiff’s injuries.

In opposition, Plaintiff argues that she consistently identified her fall location as the corner of Cottonwood Avenue and Elsworth Street. She also asserts that the photograph attached to her claim shows the exact location of the fall, which Defendant later marked as an exhibit in her deposition and had sufficient notice. She argues that her claim substantially complied with the Government Claims Act. She also argues that Defendant waived any challenge to the sufficiency of the claim by failing to serve a notice of insufficiency. (Govt. Code § 910.8.) She contends that whether Defendant was prejudiced is a triable issue of fact.

In reply, Defendant argues that Plaintiff’s compliance with the Claims Act does not negate her inability to prove a triable issue of fact. Defendant also distinguishes Plaintiff’s cases cited. It otherwise repeats its arguments in the moving papers.

A motion for summary judgment shall be granted when no triable issue of material fact exists, or the issue is one of law and the action can be terminated in favor of the moving party without trial. (Code Civ. Proc., § 437c; *Aguilar v. Atlantic Richfield Co.* (2001) 25 Cal.4th 826, 850.) Although summary judgment is no longer considered a “disfavored” procedure, the rule continues that the moving party’s evidence must be strictly construed, while the opposing party’s evidence must be liberally construed. (*Binder v. Aetna Life Insurance Co.* (1999) 75 Cal.App.4th 832.)

A defendant moving for summary judgment bears the initial burden of production. (Code Civ. Proc. § 437c(p)(2).) The defendant must present evidence sufficient to show either that one or more elements of the plaintiff’s cause of action cannot be established or that a complete defense exists. (*Ibid.*) It has its initial burden regardless of whether the opposing party files counter-declarations. (*Aguilar v. Atlantic Richfield Co.* (2001) 25 Cal.4th 826, 850; *Consumer Cause, Inc. v. SmileCare* (2001) 91 Cal.App.4th 454, 468.) Where a defendant fails to meet its burden, the motion must be denied; plaintiff need not make any showing at all. (*Id.*)

Once the defendant has met its burden, the burden shifts to plaintiff to show that a triable issue of one or more material facts exists as to that cause of action or defense thereto. (Code Civ. Proc. § 437c(p)(2).) To satisfy this burden, the plaintiff cannot rely upon the allegations or denials in its pleadings but must “set forth the specific facts showing that a triable issue of material fact exists.” (*Ibid.*) Claims and theories not supported by admissible evidence do not raise triable issues of fact. (*Rochlis v. Walt Disney Co.* (1993) 19 Cal.App.4th 201, 219, *disapproved on another ground in Turner v. Anheuser–Busch, Inc.* (1994) 7 Cal.4th 1238.)

Although summary judgment is designed to “pierce” the pleadings, “[t]he pleadings play a key role in a summary judgment motion.” (*Hutton v. Fidelity Nat’l Title Co.* (2013) 213 Cal.App.4th 486, 493.) A defendant moving for summary judgment needs only negate the theories of liability *as alleged in the complaint*; that is, a moving party need not refute liability on some theoretical possibility not included in the pleadings. (*Id.*) In other words, the pleadings frame the issues on a summary judgment motion.

Here, Plaintiff’s complaint alleges a single theory of liability: that she walked “with the assistance of her walker,” and fell when her “walker went over an uneven and/or broken and/or deteriorating and/or raised portion of the pavement and/or roadway.” (Compl., p. 6). Defendant’s motion is predicated on the sole argument that a variance exists between the description of the dangerous condition in Plaintiff’s government claim and her deposition testimony.

Under the Government Claims Act (the “Act”), a plaintiff bringing suit for monetary damages against a public entity or employees must first present a claim to the public entity (“government claim”) which must be acted upon or deemed rejected by the public entity. (Govt. Code §§ 945.4, 950.2, 950.6(a).) It is an element of a cause of action against a public entity. (*Gong v. City of Rosemead* (2014) 226 Cal.App.4th 363, 374.) The purpose is to provide sufficient information to the public entity to enable it to adequately investigate claims and settle, if appropriate, without the expense of litigation.

(*Ibid.*) It is required irrespective of the public entity's actual knowledge of the circumstances. (*Ibid.*)

The claim must contain the following information: (1) the name and address of the claimant; (2) the address which the person presenting the claims seeks the notices to be sent; (3) the date, place and other circumstances of the occurrence or transaction gave rise to the claim asserted; (4) a general description of the indebtedness, obligation, injury, damage or loss; (5) the names of public employees causing the injury, damage or loss; and (6) the amount claimed. (*Id.* at § 910.)

For negligence, the elements are: (1) legal duty owed to plaintiffs to use due care; (2) breach of duty; (3) causation; and (4) damage to plaintiff. (*County of Santa Clara v. Atlantic Richfield Co.* (2006) 137 Cal.App.4th 292, 318.) Premises liability is a form of negligence. Accordingly, the elements of a claim for injuries suffered by an invitee due to a dangerous condition on the premises (whether natural or artificial) are duty, breach, causation, and damages. (*Ortega v. Kmart Corp.* (2001) 26 Cal.4th 1200, 1205.)

Defendant argues that, since Plaintiff testified that she fell at a different physical location (the dirt path) than that alleged in the complaint and the government claim form (the pavement/roadway), Plaintiff cannot establish the element of causation. Defendant's evidence makes a prima facie showing that the specific dangerous condition identified in the government claim was not the proximate cause of Plaintiff's injury. To that end, Defendant has met its initial burden to produce evidence to negate the causation element of Plaintiff's claim. The burden of production shifts to Plaintiff to demonstrate the existence of a triable issue of material fact.

Here, Plaintiff has raised different arguments that create triable issues of fact.

First, Plaintiff argues that she substantially complied with the claims statute. "Under the doctrine of substantial compliance the court may conclude a claim is valid if it substantially complies with all of the statutory requirements for valid claim even though it is technically deficient in one or more particulars...The doctrine is based on the premise that substantial compliance fulfills the purpose of the claims statutes, namely, to give the public entity notice of the nature of the claim so that it may investigate and settle those having merit without litigation." (*Santee v. Santa Clara County Office of Education* (1990) 220 Cal.App.3d 702, 713 [citation omitted].) As stated by the California Supreme Court:

The purpose of these statutes is "to provide the public entity sufficient information to enable it to adequately investigate claims and to settle them, if appropriate, without the expense of litigation." [Citations.] Consequently, a claim need not contain the detail and specificity required of a pleading, but need only "fairly describe what [the] entity is alleged to have done." [Citations.] As the purpose of the claim is to give the government entity notice sufficient for it to investigate and evaluate the claim, not to eliminate meritorious actions [citations], the claims statute "should not be applied to snare the unwary where its purpose has been satisfied" [Citation].

(*Stockett v. Association of California Water Agencies Joint Powers Insurance Authority* (2004) 34 Cal.4th 441, 446.) A complaint is not fatally defective if the facts underlying it have been “fairly reflected” in the government claim. (*Id.* at 447.) A complaint that “merely elaborates or adds further detail to a claim but is predicated on the same fundamental actions or failures to act by the defendants,” is permissible. (*Id.*) “Only where there has been a ‘complete shift in allegations, usually involving an effort to premise civil liability on acts or omissions committed at different times or by different persons than those described in the claim,’ have courts generally found the complaint barred.” (*Id.*)

Here, it is undisputed that Plaintiff has consistently identified the same date, 12/17/23 (Undisputed Material Fact (“UF”) #1), and the same intersection (Cottonwood & Elsworth) for her fall. (Plaintiff’s UF #5.) Her claim describes an “uneven, broken, raised and/or deteriorating portion of the pavement and/or roadway.” (UF #4.) Her deposition testimony describes the cause of her fall as her walker wheel catching an edge “in between the dirt and the concrete.” (Plaintiff’s UF #7.) She also testified that the edge was “elevated,” “uneven,” and “unlevel,” with a “difference in height” between the dirt and the concrete. (*Id.*, #8.) The description of the defect as “uneven” and “raised” is consistent throughout. Whether Plaintiff’s testimony is a “complete shift” of facts or an “elaboration” on the original claim is a question of fact for the jury. Notably, it is also undisputed that the photograph that Plaintiff submitted with her original claim is the same wide-angle image that Defendant itself marked as Deposition Exhibit 3, that is, the same exhibit that Plaintiff circled to identify the location of her fall. (Plaintiff’s UF #13.) This creates an inference that Defendant possessed a photograph of the alleged fall location and negates Defendant’s argument that it was deprived of the opportunity to investigate. Whether Plaintiff’s claim constitutes substantial compliance is a question of fact for the jury. The court should deny the motion.

In the alternative, Plaintiff argues that Defendant waived its right to challenge the sufficiency of the claim by failing to send a Notice of Insufficiency.

If a public entity determines that a claim fails to comply with the claims requirements, it must give written notice of the claim’s insufficiency, “stating with particularity the defects or omissions therein.” (Gov. Code, § 910.8.) “Any defense as to the sufficiency of the claim based upon a defect or omission in the claim as presented is waived by failure to give notice of insufficiency....” (Gov. Code, § 911.)

Here, it is undisputed that Plaintiff submitted a claim identifying the date and location of the incident and describing the condition. (UF#1, 2, 4.) It is also undisputed that Defendant never served Plaintiff with a Notice of Insufficiency. (Plaintiff’s UF # 11.) Since Defendant never sent such a notice, it creates a triable issue of fact as to whether Defendant waived its right to challenge the sufficiency of the claim’s description of the location or condition. (See *Simms v. Bear Valley Community Healthcare District* (2022) 80 Cal.App.5th 391, 401 [“If the public entity fails to send this notice, it waives any defenses as to the sufficiency of the claim based upon a defect or omission.”].)

A triable issue of fact also exists as to whether Defendant was actually prejudiced by the variance of wordings. In *Johnson v. City of Oakland* (1961) 188

Cal.App.2d 181, the court agreed that “whether or not giving the incorrect address misled or prejudiced the [Defendant]... is a triable issue of fact,” and that the granting of the summary judgment is improper. (*Johnson v. City of Oakland* (1961) 188 Cal.App.2d 181, 182-83.)

In sum, triable issues exist as to whether Plaintiff substantially complied with the Government Claims Act, whether Defendant waived its defense, and whether Defendant was misled or suffered any prejudice by the pleading variance. This is sufficient to defeat summary judgment.

4.

CASE #	CASE NAME	HEARING NAME
CVRI2506419	PITA VS AMERICAN HONDA MOTOR CO., INC	MOTION TO COMPEL FURTHER RESPONSES TO PLAINTIFFS' REQUEST FOR PRODUCTION OF DOCUMENTS, SET ONE

Tentative Ruling:

- **Grant the motion as to RFP nos. 1-14.**
- **Grant the motion as to RFP nos. 15-29, but limited to rules, policies, and procedures applicable to vehicles of the same year, make, and model as the Vehicle.**
- **Grant the motion as to RFP no. 30 but limited to complaints about the defects/nonconformities that Plaintiffs contend impaired the use, value, and safety or the Vehicle.**
- **Deny the motion as to RFP no. 31.**

This is a lemon law action. On November 12, 2025, Plaintiffs Zoila Villegas Pita and Richard Kave (“Plaintiffs”) filed a Complaint against Defendant American Honda Motor Co., Inc. (“Defendant”) for (1) breach of express warranty in violation of the Song Beverly Act; (2) breach of implied warranty in violation of the Song Beverly Act; and (3) violation of section 1793.2 of the Song Beverly Act. In the Complaint, Plaintiffs allege that on March 16, 2024, they purchased a 2024 Honda Pilot (the “Vehicle”), on which Defendant issued a written warranty. (Complaint at ¶¶ 8-9, 20.) The Vehicle was delivered to Plaintiffs with defects to the engine, electrical emission, structural, and steering systems that impaired the use, value, and safety of the Vehicle. (Complaint at ¶¶ 10, 21, 25.) Plaintiffs brought the Vehicle to Defendant for repairs, and Defendant could not conform the Vehicle to the warranty within a reasonable number of attempts. (Complaint at ¶¶ 11-13, 26-27.)

On February 2, 2026, Plaintiffs propounded requests for production of documents (“RFPs”) on Defendant. On March 27, 2026, Defendant served responses to the RFPs that Plaintiffs deemed non-compliant.

Plaintiffs now move for an order compelling Defendant to provide further responses to RFP nos. 1, 3, 4, and 7-31, which seek documents related to the Vehicle; Defendant’s policies and procedures for handling warranty issues and Song Beverly Act claims; and Defendant’s knowledge of similar defects in vehicles of the same year, make, and model. They argue the discovery is proper and necessary to support their claims, the boilerplate objections raised by Defendant lack merit, and Defendant failed to produce many responsive documents.

In opposition, Defendant first argues that the motion should be denied because Plaintiff’s separate statement does not comply with CRC 3.1345. It also argues that Plaintiffs’ abusive discovery tactics are the reason California recently enacted AB 1755. its objections were proper, and it provided code-compliant responses to every RFP.

Plaintiffs complied with their statutory obligation to meet and confer before filing this motion. (See, Decl. of Ryan Ardi [“Ardi Decl.”] at ¶¶ 14-17.)

Defendant first argues that Plaintiffs’ motion should be denied because their separate statement does not comply with CRC 3.1345. CRC 3.1345(c) states that “[a] separate statement is a separate document filed and served with the discovery motion that provides all the information necessary to understand each discovery request and all the responses to it that are at issue. The separate statement must be full and complete so that no person is required to review any other document in order to determine the full request and the full response.” It then states that the separate statement must include the text of each request/interrogatory, the text of each response, and the factual and legal reasons for compelling a further response. (*Ibid.*) While Defendant is correct that Plaintiffs include general arguments about various objections raised by Defendant in their separate statement, they do set forth the text of each request, Defendant’s response, and the reasons why further responses are required. Thus, Plaintiffs comply with CRC 3.1345, and Defendant’s argument to the contrary is without merit.

To prevail over a claim under the *Song Beverly Act*, Plaintiff must prove a nonconformity with a vehicle that substantially impaired its use, value, or safety that Defendant and/or its authorized representatives failed to repair after a reasonable number of attempts. (*Oregel v. Am. Isuzu Motors, Inc.* (2001) 90 Cal.App.4th 1094.) The Song-Beverly Act also provides a right of action to recover damages and other relief if the vehicle was sold with a known defect. (Civ. Code § 1794(a); *Mexia v. Rinker Boat Co., Inc.* (2009) 17 Cal.App.4th 1297, 1304-05 (implied warranty of merchantability). Under the Song-Beverly Act, a “manufacturer has an affirmative duty to replace a vehicle or to make restitution to the buyer if the manufacturer is unable to repair the new vehicle after a reasonable number of repair attempts.” (*Lukather v. General Motors, LLC* (2010) 181 Cal.App.4th 1041, 1050.) Willful failure to comply with that duty subjects a manufacturer to a civil penalty of up to twice the amount of actual damages. (Civ. Code § 1794(c).) Critical to the showing of “willfulness” is whether the manufacturer knew of the alleged defect, including not only through evidence that the vehicle was not been repaired after a reasonable number of attempts, but also through internal investigations

and warranty records showing that other consumers were similarly affected. (*Jensen v. BMW of N. Am., Inc.* (1995) 35 Cal.App.4th 112, 136 [in assessing whether a violation is willful, the jury is entitled to consider, among other things, whether “the manufacturer knew the vehicle had not been repaired within a reasonable period or after a reasonable number of attempts”]; *Oregel, supra*, 90 Cal.App.4th at 1104-1105 [evidence that defendant-manufacturer was aware of unsuccessful repair attempts can support civil penalty liability]; *Troensegaard v. Silvercrest Indus., Inc.* (1985) 175 Cal.App.3d 218, 226 [noting that defendant manufacturer’s possession of a report on the defective condition was sufficient to support civil penalty liability]; *Krotin v Porsche Cars North America, Inc.* (1995) 38 Cal.App.4th 294, 303 [noting an “automobile manufacturer need not read minds to determine which vehicles are defective; it need only read its dealers’ service records”].)

A party may file a motion compelling further answers to RFPs if it finds that the response is inadequate, incomplete, or evasive, or an objection in the response is without merit or too general. (C.C.P. §2031.310.) The moving party on a motion to compel further responses to RFPs must set forth “specific facts showing good cause justifying the discovery sought by the demand.” (C.C.P. §2031.310(b)(1).) The burden to establish “good cause,” is met by a fact-specific showing of relevance. (*Glenfed Develop. Corp. v. Sup. Ct.* (National Union Fire Ins. Co. of Pittsburgh, Penn.) (1997) 53 Cal.App.4th 1113, 1117, citing Weil & Brown, Cal. Practice Guide: Civil Procedure Before Trial (The Rutter Group 1996) ¶¶ 8:1495.6 to 8:1495.10.) “In the context of discovery, evidence is ‘relevant’ if it might reasonably assist a party in evaluating its case, preparing for trial, or facilitating settlement.” (*Glenfed Development Corp. v. Superior Court* (1997) 53 Cal.App.4th 1113, 1117.) It is sufficient if the information sought might reasonably lead to admissible evidence. (C.C.P. §2017.010.) Once good cause is established, the responding party has the burden to justify any objections. (*Kirkland, supra*, 25 Cal.App.4th at 98.)

RFP Nos. 1-14

In RFP nos. 1, 3, 4, and 7-14, Plaintiffs seek documents related to the Vehicle, including those contained in Defendant’s Customer Relations Center, and those related to: inspections; repair orders; diagnostic codes related to inspections or repairs; recalls, TSBs, and/or dealer advisories; summaries of warranty repairs performed and amounts paid for the repairs; photos and videos; and communications between Defendant and authorized repair facilities, Plaintiff, and/or third parties about the Vehicle. (Ardi Decl., Ex. 1, nos. 1, 3, 4, 7-14.)

In response to these RFPs, Defendant objects that they seek confidential and proprietary information. As to several of the RFPs, Defendant also objects that they ask Defendant to respond on behalf of other entities. Defendant then states that “subject to and without waiving these objections, the requested production will be allowed in whole and all documents in the requested category that are in the possession, custody, or control of AHM will be included in the production.” (Ardi Decl., Ex. 2, nos. 1, 3, 4, 7-14.)

Defendants’ objections to these RFPs lack merit. First, it does not appear that any of the RFPs seek documents from entities other than Defendant, and Defendant

fails to explain how this is the case. Additionally, objections based on confidentiality are not proper grounds for withholding responsive information. (See, *Columbia Broadcasting Sys., Inc. v. Sup. Ct.* (1968) 263 Cal.App.2d 12, 23 [“We know of no case holding that this is a proper objection to an otherwise proper interrogatory.”].) Furthermore, a stipulated protective order has been entered by the Court. While Defendant did agree to produce responsive documents, its response is limited by the meritless objections it raised. Accordingly, the motion is granted as to these RFPs, and Defendant is ordered to provide further responses, without objection, and to produce all responsive documents.

A. RFP Nos. 15-29

In RFP nos. 15-22, Plaintiffs request documents related to Defendant’s policies and procedures since 2020 on various issues, including: issuing refunds or replacement of vehicles under the Song Beverly Act, and how this determination is made; escalating or creating a Service Activity regarding customer complaints of defects; calculating the repurchase of a vehicle; and advising customers to deliver a vehicle for diagnosis or repair instead of offering a repurchase/replacement. (Ardi Decl., Ex. 1, nos. 15-22.) RFP nos. 23-29 ask for Defendant’s warranty policy and procedure manuals provided to authorized repair facilities since 2020 on various issues, including: how to determine if repairs are covered under the warranty or as “goodwill;” repeated repair visits for the same issue; what repairs require Defendant’s approval to be covered under the warranty; what repairs won’t be reimbursed as warranty repairs; and how to handle customer complaints that are not duplicated at a repair visit. (Ardi Decl., Ex. 1, nos. 23-29.)

Defendant objects that these requests are overbroad, vague and ambiguous, and not relevant or likely to lead to admissible evidence. In response to no. 21 (regarding training materials on how to calculate a repurchase), Defendant also objects that the request invades the attorney-client privilege. Again, these objections lack merit.

Plaintiffs are entitled to information about policies and procedures because it is relevant to whether Defendant’s failure to comply was willful to support penalties. (See, Civ. Code § 1794(c); *Schreidel v. American Honda Motor Co.* (1995) 34 Cal.App.4th 1242, 1249-1250.) Furthermore, Defendant fails to show that any information requested is protected by the attorney client privilege. “The attorney-client privilege, set forth at Evidence Code section 954, confers a privilege on the client “to refuse to disclose, and to prevent another from disclosing, a confidential communication between client and lawyer.” (*Costco Wholesale Corp. v. Superior Court* (2009) 47 Cal.4th 725, 732). “The party claiming privilege carries the burden of showing that the evidence which it seeks to suppress is within the terms of the statute.” (*D. I. Chadbourne, Inc. v. Superior Court of San Francisco* (1964) 60 Cal.2d 723, 729). Evidentiary privileges must be construed narrowly while discovery statutes must be construed liberally. (*Sullivan v. Superior Court* (192) 29 Cal.App.3d 64, 72). In the present case, Defendant has not presented any evidence that the information sought includes attorney-client communications, and therefore, has not met its burden of showing that any of the information sought in the disputed RFPs is protected by the attorney-client privilege.

As with RFP nos. 1-14, while Defendant ultimately provides a substantive response to most of the RFPs (either stating that no responsive documents exist [nos. 15, 17-22] or they will be produced [no. 16, 27, 29]), these responses are limited by Defendant's meritless objections, so a further response is necessary. (Ardi Decl., Ex. 2, nos. 15-22, 27, 29.)

Additionally, in response to nos. 23-26 and 28, Defendant states: "Subject to and without waiving these objections, AHM is unable to comply with this request. Pursuant to a diligent search and reasonable inquiry, AHM has no automotive warranty policy and procedure manual, or similar document, and no such document has ever existed. As directed to documents regarding AHM's automotive policies and procedures regarding warranty coverage and repair, the requested production will be allowed in whole and all documents in the requested category that are in the possession, custody, or control of AHM will be included in the production." (Ardi Decl., Ex. 2, nos. 23-26, 28.) This response is contradictory and evasive.

Accordingly, the motion is granted as to RFP nos. 15-29, but the requests are limited to rules, policies, and procedures applicable to vehicles of the same year, make, and model as the Vehicle in this case.

B. RFP No. 30

In RFP no. 30, Plaintiffs seek a list or compilation of other customer complaints regarding 2024 Honda Pilot vehicles that are substantially similar to the complaints made by Plaintiffs. Defendant raises the same objections discussed above and refuses to produce any documents. Plaintiffs are entitled to information about other vehicles with the same make and model with the same defects. (See e.g., *Donlen v. Ford Motor Co.* (2013) 217 Cal.App.4th 138; *Doppes v. Bentley Motors, Inc.* (2009) 174 Cal.App.4th 967, 971.) Thus, RFP no. 30 is generally proper. However, it is limited to complaints about the defects/nonconformities that Plaintiffs contend impaired the use, value and safety of the Vehicle (as opposed to any complaint made about the Vehicle). Therefore, the motion is granted as to RFP no. 30 with this limitation.

C. RFP Nos. 31

RFP no. 31 asks Defendant for "All DOCUMENTS that refer to, reflect, or relate to any Field Report issued, or in the process of being issued, in response to complaints experienced by Plaintiffs as described in Defendant's warranty history/summary and within the line items of the repair orders created at Defendant's authorized repair facility." As written, it appears this request is looking for documents related to complaints made by Plaintiffs. However, both parties treat it as seeking information about other vehicles. As the meaning of the request is unclear even to the Court, the motion is denied as to this request.

Accordingly,

The motion is GRANTED as to RFP nos. 1-14.

The motion is GRANTED as to RFP nos. 15-29, but limited to rules, policies, and procedures applicable to vehicles of the same year, make, and model as the Vehicle.

The motion is GRANTED as to RFP no. 30 but limited to complaints about the defects/nonconformities that Plaintiffs contend impaired the use, value, and safety of the Vehicle.

The motion is DENIED as to RFP no. 31.