<u>September 4, 2026, Civil Law & Motion Tentative Rulings</u>

1. CU0001190 Alice Branton, et al. vs. Zarlasht Fakiri, D.O., et al.

Defendants Edelweiss Holdings, LLC, dba Crystal Ridge Care Center; California OPCO, LLC; Providence Administrative Consulting Services, Inc.; Providence Group, Inc.; and 396 Dorsey Drive, LLC ("Settling Defendants") filed a motion for determination of good faith settlement between Plaintiffs and Settling Defendants. The Court grants the unopposed motion.

<u>Motion to Seal</u>

Settling Defendants' motion to seal an "unredacted" settlement agreement/release limited to the settlement amount is granted.

<u>Legal Standard</u>

In an action alleging claims against multiple joint tortfeasors, a party may seek a good faith settlement determination under Code of Civil Procedure section 877.6(a) which, if granted, generally bars claims for contribution and indemnity by any other joint tortfeasor against the settling party. Code Civ. Proc. §§ 877.6(a)(1), (c).

"Any party to an action in which it is alleged that two or more parties are joint tortfeasors … shall be entitled to a hearing of good faith of a settlement entered into by the plaintiff or other claimant and one or more alleged tortfeasors …." Code Civ. Proc. § 877.6(a)(1). Rulings on a motion for good faith settlement must be made "in view of the equitable goals of the statute, in conformity with the spirit of the law and in a manner that serves the interests of justice," and must serve the goals of "encouraging settlement among all interested parties" and "equitably allocating costs among multiple tortfeasors," as opposed to allowing a party to obtain "protection from its indemnification obligation at bargain-basement prices." *Long Beach Memorial Medical Center v. Sup. Ct.* (2009) 172 Cal. App. 4th 865, 873, 876.

The requirement of good faith is to protect the interests of the non-settling defendants. *City of Grand Terrace v. Superior Court* (1987) 192 Cal.App.3d 1251, 1263. Once the settling party has demonstrated a settlement exists, a presumption of good faith exists. *Schultz v. Super. Ct.* (1980) 104 Cal.App.3d 250, 252. A party asserting a settlement was reached in bad faith bears the burden of proof of demonstrating bad faith. *Ibid.* "When no one objects, the … motion which sets forth the ground of good faith, accompanied by a declaration which sets forth a brief background of the case, is sufficient." *City of Grand Terrace*, 197 Cal.App. 3d at 1261.

<u>Analysis</u>

As a preliminary matter, this motion was served on all parties and no opposition was filed including an opposition by the non-settling party, Dr. Chandan Cheema, dba Capital Medical Extended Care. The Court deems Dr. Cheemas's failure to oppose the motion as consent to the granting of the same. *See* Cal. Rules of Court, rule 8.54(c) ("failure to oppose a motion may be deemed a consent to the granting of the motion."); *see, e.g., Amato v. Downs* (2022) 78 Cal.App.5th 435, 440, n.3 (unopposed motion can be granted on that basis, citing rule 8.54(c)).

In addition, Settling Defendants have made a prima facie showing of a good faith based on their motion and sealed filing. *See, e.g..,* Redacted Confidential Coulston Decl., ¶ 2, Ex. C. As noted before, the Non-Settling Defendant was advised of the settlement, including the confidential terms and amount of the settlement, and has not opposed the same. *See* Coulston Decl., ¶ 4, Ex. A. The presumption of good faith has not been challenged or rebutted. Therefore, the motion is granted.

2. CU0002033 Ingrid Speck, et al. vs. Justfly Corp., et al.

Defendants Justfly Corp. and Justfly, Inc.'s motion to set aside the defaults and default judgment is granted.

Defendants argue, among other things, that the defaults were never properly requested or entered as to the operative complaint such that the defaults and associated judgment are void. The Court agrees.

The court has authority to set aside a void judgment at any time. *Heidary v. Yadollahi* (2002) 99 Cal.App.4th 857, 862. "Indeed, section 473 itself contains a separate provision [subd. (d)] allowing the court to set aside a void judgment without any mention of a time limit. *Ibid.; see, e.g., Plotitsa v. Superior Court* (1983) 140 Cal.App.3d 755, 761 ("a default that is void on the face of the record when entered is subject to challenge at any time irrespective of lack of diligence in seeking to set it aside within the six-month period of [Code of Civil Procedure] section 473").

"An 'amended' complaint supersedes all prior complaints, and the original complaint ceases to have any effect either as a pleading or as a basis for judgment." *Malear v. State of California* (2023) 89 Cal.App.5th 213, 221 (quotations and citations omitted); *see also LAOSD Asbestos Cases* (2018) 28 Cal.App.5th 862, 875, n. 5. (" 'an amendatory pleading supersedes the original one, which ceases to perform any function as a pleading. ' 'Such amended pleading supplants all prior complaints. ... ' ")(citations and quotations omitted).

At bar, the defaults at issue were improvidently entered by the Clerk. Plaintiffs filed this action on April 18, 2025, and subsequently filed a First Amended Complaint ("FAC") on June 23, 2025, which became the operative complaint. On *September 29, 2025*, Plaintiffs sought entry of default against Defendants as to the Complaint filed on April 18, 2025. *See* 9/29/25 Request for Default as to Justfly, Inc.; 9/29/25 Request for Default as to Justfly Corp. The Clerk incorrectly entered those defaults in connection with the non-operative complaint on or about the same date. These defaults are set aside.

Plaintiffs filed a March 2, 2026, request for default judgment as to the original 2025 complaint, which was granted by Judge Anderson (visiting judge) on March 6, 2026. That judgment is likewise void as it was premised on a non-operative complaint.

Finally, the Clerk entered a May 11, 2026, order setting aside the May 4, 2026, answers by Justfly, Inc. and Justfly Corp. to the operative amended complaint based on a belief that they had been defaulted. That was also erroneous. No lawful default or judgment barred the filing of those answers. The Court vacates the Clerk's May 11, 2026, minute order, and orders that the answers be deemed filed as of May 4, 2026.

None of Plaintiffs' arguments to the contrary persuade the Court otherwise.

There were numerous other assignments of error by the moving parties. The Court need not address the same given the disposition noted.

A case management conference is set for November 2, 2026, at 9:00 a.m., in Department 6.

3. CU0001483 Susan Gabrielle vs. Phillip G. Conlon, Jr.

Appearances are required by the parties to discuss the results of the property inspection and status as to the sale of the property.

4. CU0000090 Matthew Palleschi, et al. v. Daniel Fraiman Construction, Inc., et al.

Motion for Reconsideration

Defendants Daniel Fraiman Construction, Inc. and Daniel Fraiman's motion for reconsideration and immediate stay is denied.

<u>Legal Standard</u>

Any affected party may make an application to the same judge or court to reconsider the matter and modify, amend, or revoke the prior order when an application for an order made to a judge or a court is refused in whole or in part, or granted, or granted conditionally, or on terms within 10 days after service upon the party of written notice of entry of the order and *based upon new or different facts, circumstances, or law*. Code Civ. Proc. § 1008(a) (emphasis added). Contentions that the court has made an error of law or refused to consider evidence are not new facts as required for a motion under Code of Civil Procedure section 1008. *Jones v. P.S. Development Co., Inc.* (2008) 166 Cal.App.4th 707, 724. "New facts" is defined as facts which were not available to the party at the time of the hearing. *In re Marriage of Herr* (2009) 174 Cal.App.4th 1463, 1468. To prevail on a motion for reconsideration based on new facts, a party must provide a satisfactory explanation for failing to offer the evidence in the first instance. *New York Times Co. v. Superior Court* (2005) 135 Cal.App.4th 206, 212. The new facts offered must be accompanied by a showing of strong diligence in discovery and bringing the new facts; absent a strong showing of diligence, the motion will be denied. *Forrest v. Department of Corporations* (2007) 150 Cal.App.4th 183, 202. Where the motion for reconsideration brings no valid new fact to the merits of the underlying motion, and merely raises a collateral matter, reconsideration will be denied. *Gilberd v. AC Transit* (1995) 32 Cal.App.4th 1494, 1500.

Discussion

Defendants main argument is that Judge Hardcastle erred in connection with his July 10, 2026, ruling. State Defendants:

> The Court never addressed whether the specific objections to Form Interrogatory No. 326.1 were meritorious, whether Plaintiffs' requests improperly sought admissions or legal characterizations concerning pleadings and procedural matters already reflected in the Court's record, whether Plaintiffs' refusal to continue meeting and conferring made further motion practice unnecessary, or whether the claimed fees were actually caused by sanctionable conduct. Instead, the Order grants the motion wholesale, requires responses "without objections," and imposes the full amount in sanctions without any analysis of those issues. Because the Court did not consider the material facts bearing on the necessity, scope, and fairness of the relief awarded, and because subsequent circumstances have further exposed the absence of urgency and prejudice claimed by Plaintiffs, the August 10, 2026 Order should be vacated in its entirety.

Defendants Mot.at 8:9-19.

To the extent that Defendants argue that Judge Hardcastle erred, that is insufficient to merit reconsideration. As for the "subsequent circumstances" cited by Defendants, *see* Def. Mot at 5:20-8:19, Defendants have failed to point to any material, new fact or law that could not have been discovered through the exercise of due diligence and that justifies reconsideration.

Defendants protest that Plaintiffs "did not perfect or implement the relief it obtained while discovery remained open." Per Plaintiffs, "Requiring further discovery at this stage would effectively reopen discovery … and would inject unnecessary discovery proceedings into the final weeks before trial." The Court is not persuaded.

Defendants were in possession of the exact language of the proposed order on July 10, 2026, and never served any objection to the same. Moreover, the discovery obligations of the order were well known to Defendants at the conclusion of the July 10 hearing, after the hearing, and prior to the close of discovery. Defendants fail to persuasively explain why they failed to provide the court ordered discovery and sanctions prior to the close of discovery given their knowledge of the order. In any event, they have not offered any persuasive reason why they cannot do so at this time.

Defendants' request for reconsideration is denied. Defendants shall comply with the previous order of the Court.

Motion to Compel

Plaintiffs Matthew Palleschi and Michelle Palleschi's motion to compel further responses to, and in compliance with, the Court's July 1, 2026 Modified Order is granted. Sanctions are awarded against Defendants.

On July 1, 2026, the Court entered its Modified Order which directed Defendants to produce responsive documents to 43 categories of financial records. Mot., 4:17-18. On August 6, 2026, Defendants produced documents, including documents which were redacted. Mot., 4:20-22. On August 14, 2026, the Court ordered Defendants to serve a declaration identifying, category by category, the documents produced or to state where none exist. Mot., 24-26. Such declaration was filed on August 17, 2026. 8/17/2026 Fraiman Decl. On August 21, 2026, the Court granted Plaintiffs' motion to file confidential documents under seal. 8/21/2026 Min. Order. On August 25, 2026, the Court granted the *ex parte* application for protective order in limited part, and ordered Defendants to produce all documents to Plaintiff's counsel for immediate review. 8/25/2026 Min. Order.

In short, Plaintiffs state they reviewed the specific Bates numbers the Fraiman Declaration cited as responsive, and found approximately 282 Bates Stamped documents were not produced. Negele Decl., ¶ 5. Moreover, Plaintiffs set forth detailed reasons why they believe the DFC Defendants production and response has been inadequate. *See* Plaintiffs' Separate Statement. In opposition, DFC Defendants suggest they have exercised appropriate due diligence and have fully responded. Defendants also allege they produced documents from Bates ranges DFC_FIN_000001 through DFC_FIN_002399. Opp., 3:24-25. Defendants concede, however, that "DFC Defendants identified some categories in the August 17 Declaration where additional documents would be produced." Opp., 2:9-11.

Based on the record presented, there is good cause to compel further responses and action by Defendants. The specific order is set forth below.

Monetary sanction against Defendants are warranted. "Misuses of the discovery process" include "making or opposing, unsuccessfully and without substantial justification, a motion to compel or to limit discovery." Code Civ. Proc. § 2023.010(h). At bar, Defendants opposed the motion unsuccessfully and have not provided substantial or persuasive justifications for their failure to timely produce all documents and account for the nonexistence of requested documents. No other circumstances make the imposition of sanctions unjust. Sanctions will be awarded against Defendants.

Plaintiffs present evidence they have incurred $10,575.00 in attorneys' fees comprised of 7.5 hours of paralegal time at $50/hour and 17 hours of attorney time at $600/hour. Negele Decl., ¶¶ 7-8. Having read and considered the declarations from Plaintiffs' counsel, the Court finds that reasonable attorney fees for this type of work in this County is $400.00/hour. The Court awards paralegal fees as requested ($375.00) and attorney fees as modified ($6,800.00) for a total of $7,175.

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Order Requiring Further Production of Documents and Supplemental Compliance Declaration by DFC Defendants

Defendants shall conduct an exhaustive search for all categories of documents below and produce the same to Plaintiffs no later than September 11, 2026. Defendants shall prepare a supplemental compliance declaration, under penalty of perjury, that outlines precisely what reasonable diligence has been exercised to locate these documents. The supplemental declaration shall also outline, category by category, what documents have been located and produced. To the extent that Defendants contend no responsive documents exist, they shall address any specific noted inquiry for that category.

Tax Returns and Income Records of Individual Defendant Daniel Fraiman
Category No. 1: Defendants are ordered to produce his Federal and California personal income tax returns (IRS Form 1040 and California Form 540), with all schedules, attachments, and supporting forms, for 2025; if none exists, Defendants shall provide a declaration explaining why they have no 2025 tax returns to produce.

Category No. 2: Defendants are ordered to produce the missing documents referenced in Mr. Fraiman's Declaration, namely Bates Nos. 179-0174, 877-905, 906-917, and 950-981 and any other documents responsive to this category. If none exist, Defendants shall confirm under oath Mr. Fraiman has no Personal financial statements prepared, submitted, or relied upon within the last two years.

Bank and Financial Accounts of Individual Defendant Daniel Fraiman
Category No. 3: Defendants are ordered to produce the requested statements from all personal checking, savings, money market, and brokerage accounts held in Individual Defendant's name, jointly, or over which he holds signatory authority, for the last two (2) years, and to file a supplemental declaration stating that Mr. Fraiman and his wife, Lauren Rauch, have no other personal financial accounts, including any joint accounts, other than the ones identified by Defendants in their response to this category.

Category No. 5: Defendants are ordered to produce records of any certificates of deposit, treasury instruments, or similar financial instruments held in Individual Defendant's name or jointly with another for the last two (2) years, and to file a supplemental declaration stating under oath that Mr. Fraiman and his wife, Lauren Rauch, have no such records held individually or jointly.

Real Property of Individual Defendant Daniel Fraiman
Category No. 6: Defendants are ordered to produce copies of grant deeds, quitclaim deeds, or other title documents for all real property in which Individual Defendant holds any ownership interest, including any interest held as joint tenant, tenant in common, community property, or through a trust; if none exist, Defendant Fraiman is ordered to file a supplemental declaration stating that no such documents exist.

Category No. 7: Defendant Fraiman is ordered to fully comply with this category and to produce the requested documents for all real properties in which Defendant Fraiman has any interest, including all properties identified in the documents produced to date and in his tax returns. If Defendant Fraiman continues to maintain he has no documents responsive to this category, he is ordered to file a supplemental declaration explaining why Defendants are unable to produce documents responsive to this category.

Personal Property and Other Assets of Individual Defendant Daniel Fraiman
Category No. 9: Defendants are ordered to fully comply with this category by immediately providing all vehicle registrations and certificate of title documents for all vehicles owned individually or jointly by Individual Defendant for the last two (2) years, or a supplemental

declaration explaining why Defendants are unable to produce documents responsive to this category.

Category No. 10: Defendants are ordered to fully comply with this category by immediately providing Plaintiffs all documentation reflecting any ownership interest in any business entity (corporation, LLC, partnership, or sole proprietorship) other than Corporate Defendant, including operating agreements, partnership agreements, or stock certificates the last two (2) years, including, at a minimum the entities named on Defendants' production folders: Summit Enterprises LLC, SCM OM LLC, Sun Oak Capital LLC, Daniel Fraiman Construction Inc., Parker Lane LLC, both Palisades Drive LLCs, Jeffrey Pine LLC, and Donner Pass Road LLC, or a supplemental declaration explaining why Defendants are unable to produce documents responsive to this category.

Category No. 12: Defendant Fraiman is ordered to produce copies of all documentation of any interests in trusts (whether as settlor, trustee, or beneficiary) including trust agreements, and the most recent trust accounting for the trusts identified as responsive to this category, or a supplemental declaration explaining why Defendant Fraiman cannot produce the documents requested.

Liabilities of Individual Defendant Daniel Fraiman

Category No. 13: Defendants are ordered to produce tall personal loan agreements currently outstanding, together with the most recent account statement reflecting the current balance, or a supplemental declaration explaining why the personal loan agreements currently outstanding, together with the most recent account statement reflecting the current balance, or a supplemental declaration explaining why Defendant Fraiman cannot produce the documents requested.

Category No. 14: Defendants are ordered to produce copies of all personal credit card account statements for the past twelve (12) months, or a supplemental declaration explaining why those statements cannot be produced.

Tax Returns and Financial Statements of Corporate Defendant Daniel Fraiman Construction, a California Corporation

Category No. 19: Defendants are ordered to produce copies of all corporate tax returns filed federally and in California for the last two (2) years.

Category No. 20: Defendants are ordered to produce the missing statements of cash flow for both DFC and BTP responsive to this category, or a supplemental declaration explaining why such statements of cash flow cannot be produced.

Category No. 21: Defendants are ordered to produce copies of any financial statements, profit-and-loss statements, or balance sheets prepared for submission to lenders, bonding companies, surety companies, or investors during the past two (2) years, or a supplemental declaration explaining why they cannot be produced.

Category No. 22: Defendants are ordered to produce copies of any financial statements (profit-and-loss statements, balance sheets) most recently prepared by or for Corporate Defendant, or a supplemental declaration explaining why they cannot be produced.

Bank and Financial Accounts of Corporate Defendant Daniel Fraiman Construction, a California Corporation

Category No. 23: Defendants are ordered to produce copies of complete account statements for all corporate checking, savings, payroll, money market, and brokerage accounts held in the name of Corporate Defendants, for the period July 1, 2024, through the present, or a supplemental declaration explaining why they cannot be produced.

Category No. 24: Defendants are ordered to produce copies of all records of any certificates of deposit, treasury instruments, or other investment accounts held by Corporate Defendants, or a supplemental declaration explaining why they cannot be produced.

Category No. 25: Defendants are ordered to produce copies of all records of any merchant accounts, payment processing accounts (e.g., PayPal, Square, Stripe), or construction draw accounts maintained by Corporate Defendants, for the period July 1, 2024, through the present, or a supplemental declaration explaining why they cannot be produced.

Corporate Records and Ownership of Corporate Defendant Daniel Fraiman Construction, a California Corporation

Category No. 26: Defendants are ordered to fully comply with this category by immediately providing Plaintiffs the corporate stock ledge and records of all shares issued and outstanding, identifying all current shareholders, or a supplemental declaration explaining why Defendants are unable to produce documents responsive to this category.

Corporate Assets of Corporate Defendant Daniel Fraiman Construction, a California Corporation

Category No. 30: Defendants are ordered to fully comply with this category by immediately providing Plaintiffs a current schedule of all equipment owned or leased by Corporate Defendants, identifying each item, its approximate fair market value, and whether it is owned free and clear or subject to a lien or financing agreement, or a supplemental declaration explaining why Defendants are unable to produce the schedule and documents responsive to this category.

Liabilities and Obligations of Corporate Defendant Daniel Fraiman Construction, a California Corporation

Category No. 34: Defendants are ordered to immediately produce all lines of credit agreements and the most recent statements of the outstanding balance for each, or a supplemental declaration explaining why Defendants are unable to produce copies of all lines of credit agreements and the most recent statements of the outstanding balance for each.

Contracts, Revenue, and Receivables of Corporate Defendant Daniel Fraiman Construction, a California Corporation

Category No. 38: Defendants are ordered to fully comply with this category by immediately providing Plaintiffs a current list of all active construction contracts or agreements to which

Corporate Defendant is a party, identifying the project name, location, contract value, and amount remaining to be paid, or a supplemental declaration explaining why Defendants are unable to produce that list.

Category No. 39: Defendants are ordered to fully comply with this category by immediately providing Plaintiffs a current accounts receivable aging report, or a supplemental declaration explaining why there is no current accounts receivable aging report and why Defendants are unable to produce one.

Category No. 40: Defendants are ordered to fully comply with this category by immediately providing Plaintiffs all of DFC's accounting records evidencing all amounts owed to Corporate Defendant under contracts currently in dispute or in litigation, including the courts in which those actions are pending, or a supplemental declaration under oath stating that DFC is not owed any money and is not currently in dispute or in litigation over any amounts DFC claims it is due, other than this litigation.

Distributions, Transfers, and Related-Party Transactions
Category No. 42: Defendants are ordered to immediately produce all records of any transfer of assets out of Corporate Defendant to any individual or entity within the past two (2) years, including the nature of the asset transferred, the transferee, the date, and the consideration received, or a supplemental declaration under oath stating that no transfer of assets out of Corporate Defendant to any individual or entity has been made within the past two (2) years.

Insurance
Category No. 44: Defendants are ordered to immediately produce copies of all declarations pages for all current commercial general liability and contractors' professional liability, insurance policies maintained by Corporate Defendant.

5. CU0002738 Roberta McGregor v. Victoria Yeager

No appearances are required.

Defendant/Cross-Complainant Victoria S. Yeager's ("Defendant") motion regarding discovery is continued on the Court's motion until December 11, 2026 at 10:00 a.m. for consideration of an amended motion and associated briefing.

In her August 3, 2026, motion, Defendant moved to/for: 1) an order to deem requests for admission (sets one and two) admitted; 2) compel initial responses to special interrogatories (set one); 3) compel further responses to form interrogatories (sets one, two, and three), special interrogatories (set two) and requests for production of documents (sets one and two); 4) leave to propound additional discovery; and 5) sanctions.

As part of the motion at issue, Plaintiff reports that she served various amended discovery responses upon Defendant apparently to address potential deficiencies in connection with previous responses. Defendant appears to suggest she has not received all of the discovery responses. Both parties, without authorization from the Court, have filed numerous pleadings outside the scope of normal motion practice attempting to address the discovery issues. At this juncture, the record presented by the parties *is wholly unclear* as to what discovery responses are currently the operative responses, whether Defendant believes they are sufficient or otherwise, and the position of Plaintiff to the extent there are any purported deficiencies. The Court lacks the ability to thoughtfully adjudicate any dispute that potentially exists between the parties.

The parties are directed to meet and confer in person with respect to *all* of the discovery requests at issue to establish definitively what the operative responses are and that Defendant has received the same no later than September 11, 2026. As part of the meet and confer, Plaintiff shall personally deliver all the operative responses to Defendant. No later than September 14, 2026, the parties shall *jointly* submit each of the operative responses to the Court in a single filing which clearly identifies each separate operative response. Afterwards, should Defendant believe any of the responses are inadequate, she is granted leave to file an amended motion by no later than October 16, 2026. If an amended motion is not required, Defendant shall file a withdrawal of her original motion by the same date. Solely the amended motion will be adjudicated and solely the operative responses filed by September 14, 2026 will be considered as part of that amended motion. Should a motion be filed, any opposition shall be filed and served by November 13, 2026; and any reply shall be noticed and served by November 25, 2026. No other filings are permitted other than those noted herein.

The parties are admonished as follows: Under the Civil Rules of Procedure and Rules of Court, a moving party is allowed to file a motion with a memorandum of points and authorities (15 pages maximum) and supporting documents, an opposing party is allowed to file a single opposition with memorandum (15 pages maximum) and supporting documents, and the moving party is permitted to file a single reply (10 pages maximum). *See* Code Civ. Proc. 1005(b), Rules of Court, Rules 3.112-3.113. All briefing *shall* comply with the requirements of the Rules of Procedure and Rules of Court, *without exception*. The Court, as necessary, will exercise its authority to strike and disregard future filings that do not comply with these rules and/or impose monetary sanctions for failure to abide by applicable rules.