SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Civil Division

West District, Santa Monica Courthouse, Department P

25SMCV01474 September 14, 2026
TONY BOBULINSKI vs HUGH DICKSON, et al. 2:00 PM

Judge: Honorable David W. Swift
Judicial Assistant: K. House
Courtroom Assistant: None

CSR: None
ERM: None
Deputy Sheriff: None

APPEARANCES:

For Plaintiff(s): No Appearances

For Defendant(s): No Appearances

NATURE OF PROCEEDINGS: Ruling on Submitted Matter

The matter is not called for hearing.

The Court, having taken the matter under submission on 09/03/2026 for Hearing on Demurrer - without Motion to Strike, now rules as follows:

Final Ruling

Tony Bobulinski v. Hugh Dickson, et al., Case No. 25SMCV01474

Hearing date September 3, 2026

(1) Defendant MGG Investment Group, LP's Motion to Quash

(2) Defendants Hugh Dickson, Grant Thornton Specialist Services, Ltd., and Phillip Tyrell's Motion to Quash

(3) Defendants Hickory Grove, LLC and Theresa Roche's Motion to Quash/Demurrer

(4) Defendant Walkers (Cayman) LLP's Motion to Quash

(5) Defendant MGG Investment Group, LP's Demurrer

(6) Defendants Hugh Dickson, Grant Thornton Specialist Services, Ltd., and Phillip Tyrell's Demurrer

(7) Defendant Walkers (Cayman) LLP's Demurrer

(8) Defendants Don Williams and Sheppard Mullin Richter & Hampton LLP's Demurrer

Background

Plaintiff Tony Bobulinski alleges that he loaned $650,000 to China Branding Group ("CBG"), a Cayman Islands corporation whose primary business was to provide live event and media content into the Chinese marketplace. Plaintiff's loan investment was initially for $500,000 pursuant to Secured Convertible Promissory Note and Pledge Agreement (the "Note") entered into on April 15, 2015. Plaintiff alleges the Note was secured by the assets of CBG (the "Collateral") and he was promised a return of 2.5 times the principal. On April 11, 2026, Plaintiff signed an amendment to the Note increasing the loan amount to CBG from $500,000 to $650,000 (the "Amendment"). Plaintiff alleges all other terms remained the same, including his position as a senior secured creditor whose debt was secured by the Collateral.

Plaintiff alleges he located a buyer for CBG, Remark Media Inc., in February 2016. Plaintiff alleges Remark made a $23.5 million offer in approximately February 2016 for purchase of certain event licenses, including those included with Dick Clark Productions (the "DCP Licenses"). Plaintiff alleges Defendants fraudulently manufactured a default on CBG's notes with investors, including Plaintiff, to push CBG into liquidation in the Cayman Islands. On April 28, 2016, Defendant Hickory Grove filed a creditor's winding up petition before the Grand Court of the Cayman Islands (the "Cayman Court").

During the liquidation process and prior to finalization of the sale to Remark, Plaintiff alleges Defendants fraudulently transferred CBG's assets to shell entities owned by them, including RAAD Productions, LLC (the "Asset Transfers"). Plaintiff alleges these transfers cleared CBG of the Collateral prior to the sale to Remark, so that the sale of the Collateral was from RAAD to Remark, not CBG to Remark.

Plaintiff filed a Proof of Debt during the CBG liquidation process. Plaintiff alleges Defendants denied his claim as a secured creditor entitled to a 2.5x return. Plaintiff alleges the Cayman Court accepted Defendants' version of the facts and found that Plaintiff was not a secured creditor of CBG, that he did not have any security interest in the Collateral, and that the Collateral was an asset of RAAD when it was sold to Remark.

Plaintiff appealed the Cayman Court's findings. Plaintiff alleges the Cayman Islands Appeals Court found in his favor, stating that the denial of his proof of debt was based on a fundamentally false basis and the Defendants failed to disclose the Asset Transfers.

On March 29, 2024, Plaintiff filed an action in the U.S. District Court against Defendants Hugh Dickson, Hickory Grove, LLC, Jake Fisch, Don Williams, Grant Thornton Specialist Services, Ltd., Robert Roche, Theresa Roche, Phillip Tyrrel, Sheppard Mullin Richter & Hampton LLP, Walkers LLP and MGG Investment Group LP (the "Federal Action"). On April 22, 2024, Plaintiff filed a First Amended Complaint ("Federal FAC") alleging (1) RICO violations (2) RICO violations; (3) fraud; (4) conspiracy to commit fraud; (5) common law fraudulent transfer; (6) aiding and abetting common law; (7) violations of Civil Code section 3439; (8) aiding and abetting violations of Civil Code section 3439.

On February 20, 2025, the Federal Court granted the Motions to Dismiss the Federal FAC brought by Defendants MGG Investment Group, LP ("MGG"), Defendants Don Williams and Sheppard Mullin Richter & Hampton LLP ("Sheppard Mullin"), Defendants Hickory Grove, LLC and Theresa Roche ("Hickory Grove/Roche"), Defendant Walkers (Cayman) LLP ("Walkers"), and Defendants Grant Thornton Specialist Services (Cayman) Ltd., Hugh Dickson and Phillip Tyrrel ("Dickson Defendants"). In its February 20, 2025 order, the Court found (1) it lacked personal jurisdiction over Defendants Hickory Grove, Walkers and Dickson Defendants; (2) it lacked RICO jurisdiction over Hickory Grove/Roche and Walkers; (3) Plaintiff failed to adequately allege either RICO violations pled in the Federal FAC and (4) it intended not to exercise supplemental jurisdiction over any remaining state law claims in the absence of federal question or diversity jurisdiction. The Court granted all five Motions to Dismiss with leave to amend. Plaintiff was ordered to file a Second Amended Complaint by March 24, 2025.

Plaintiff did not file a Second Amended Complaint by March 24, 2025. On March 27, 2025, the Court dismissed the Federal Action without prejudice for lack of prosecution pursuant to Federal Rules of Civil Procedure 41 subdivision (b).

On March 21, 2025, Plaintiff filed this action. On February 6, 2026, Plaintiff filed the operative First Amended Complaint ("FAC") against Defendants Hugh Dickson, Hickory Grove, LLC, Jake Fisch, Don Williams, Grant Thornton Specialist Services, Ltd., Robert Roche, Theresa Roche, Phillip Tyrrel, Sheppard Mullin Richter & Hampton LLP, Walkers LLP and MGG Investment Group LP alleging (1) fraud; (2) conspiracy to commit fraud; (3) common law fraudulent transfer; (4) aiding and abetting common law fraudulent transfer; (5) violations of Civil Code section 3439; and (6) aiding and abetting violations of Civil Code section 3439.

On March 11, 2026, the following Defendants filed separate motions to quash the complaint and summons based on lack of personal jurisdiction: (1) Defendant MGG Investment Group, LP ("MGG"); (2) Defendants Hugh Dickson, Grant Thornton Specialist Services, Ltd. and Phillip

Tyrell ("Dickson Defendants"); (3) Defendants Hickory Grove, LLC and Theresa Roche ("Hickory Grove/Roche"); and (4) Walkers (Cayman) LLP ("Walkers"). These same defendants filed separate demurrers to the FAC.

On April 13, 2026, Plaintiff filed separate oppositions to each of the moving Defendants' demurrers and motions to quash.

On May 13, 2026, Defendants each filed separate replies to Plaintiff's Oppositions.

On May 14, 2026, the parties participated in an informal discovery conference with the Court regarding various disputes about the scope of the jurisdictional discovery served by Plaintiff.

On June 5, 2026, the parties stipulated to continue the hearings and allow additional briefing so Plaintiff would have an opportunity to include the jurisdictional discovery in their opposition papers.

On August 7, 2026, Plaintiff filed an omnibus supplemental opposition to the Motions to Quash.

On August 13, 2026, Defendants each filed supplemental replies to the supplemental opposition to the Motions to Quash.

On March 11, 2026, Defendants Don Williams and Sheppard Mullin Richter & Hampton LLC (collectively "Sheppard Mullin") filed a demurrer to the FAC. On April 14, 2026, Plaintiff filed an opposition to the demurrer. On May 13, 2026, Defendants filed a reply.

On September 3, 2026, the Court heard argument on this matter and now rules as follows:

Requests for Judicial Notice

Dickson Defendants' RJN—GRANT as to Exhibits 1, 4-7 pursuant to Evidence Code section 452(d) as records of any court of record of the United States and DENY as to Exhibits 2 and 3. Exhibits 1, 4-7 are records of the U.S. District Court for the Central District of California. Exhibits 2 and 3 are (1) a June 14, 2017 letter from the Joint Official Liquidators to Plaintiff rejecting his proof of debt and (2) the Cayman Appellate Court opinion referenced in Plaintiff's complaint. Neither of these documents is attached to the complaint, nor do they qualify as facts and propositions not reasonably subject to dispute under Evidence Code section 452 subdivision (h).

Defendants Hickory Grove/Roche's RJN—GRANT as to Exhibits 1-7 pursuant to Evidence Code section 451 subdivision (a) and section 452 subdivision (d).

Defendant Walker's RJN—GRANT as to Exhibits 1-4 pursuant to Evidence Code section 452 subdivision (d).

Defendant MGG's RJN—GRANT as to Exhibits 1 and 2 pursuant to Evidence Code section 452 subdivision (d).

Dickson Defendants' RJN ISO Reply—GRANT as to Exhibit 8.

Plaintiff Bobulinski's Omnibus RJN—GRANT as to Exhibits A and B pursuant to Evidence Code section 452 subdivision (h). GRANT as to Exhibits C and F pursuant to Evidence Code section 452 subdivision (d). DENY as to Exhibits D and E. Exhibit D is the winding up petition of CBG filed in the Grand Cayman Court and it does not fall into any of the categories for judicial notice under Evidence Code sections 451 or 452. Exhibit E is the 9/19/26 Raad Purchase and Sale Agreement, a private agreement whose terms and enforceability are in dispute.

Dickson Defendants' RJN ISO Reply to Plaintiff's Supplemental Opposition—DENY.

Sheppard Mullin's RJN ISO Demurrer—GRANT

The Court does not take judicial notice of the truth of the facts contained in the judicially noticed documents. "Courts can take judicial notice of the existence, content and authenticity of public records and other specified documents, but do not take judicial notice of the truth of the factual matters asserted in those documents." (*Dominguez v. Bonta* (2022) 87 Cal.App.5th 389, 400.)

Defendants' Walkers, Hickory Grove/Roche and Dickson Defendants' Motions to Quash

Defendants move to quash the FAC on grounds of (1) issue preclusion and (2) lack of minimum contacts. On the issue of issue preclusion, Defendants' arguments and requests for judicial notice are essentially identical. For this reason, the applicability of issue preclusion to Defendants' motions to quash will be discussed collectively.

Law of Issue Preclusion

As noted in *DKN Holdings LLC v. Faerber* (2015) 61 Cal.4th 813, 824, the use of the terms "res

judicata" and "collateral estoppel" historically in case law has resulted in enormous confusion. "To avoid future confusion, we will follow the example of other courts and use the terms 'claim preclusion' to describe the primary aspect of the res judicata doctrine and 'issue preclusion' to encompass the notion of collateral estoppel." (*DKN Holdings LLC, supra*, 61 Cal.4th at 824.)

"Claim and issue preclusion have different requirements and effects. Claim preclusion prevents relitigation of entire causes of action. Claim preclusion applies only when a second suit involves (1) the same cause of action (2) between the same parties or their privies (3) after a final judgment on the merits in the first suit. Issue preclusion, by contrast, prevents relitigation of previously decided issues, rather than causes of action as a whole. It applies only (1) after final adjudication (2) of an identical issue (3) actually litigated and necessarily decided in the first suit and (4) asserted against one who was a party in the first suit or one in privity with that party." (*Samara v. Matar* (2018) 5 Cal.5th 322, 326).

"Issue preclusion differs from claim preclusion in two ways. First, issue preclusion does not bar entire causes of action. Instead, it prevents relitigation of previously decided issues. Second, unlike claim preclusion, issue preclusion can be raised by one who was not a party or privy in the first suit. Only the party against whom the doctrine is invoked must be bound by the prior proceeding. In summary, issue preclusion applies: (1) after final adjudication (2) of an identical issue (3) actually litigated and necessarily decided in the first suit and (4) asserted against one who was a party in the first suit or one in privity with that party." (*DKN Holdings LLC, supra*, 61 Cal.4th at 825.) "California courts properly give preclusive effect to final decisions by federal courts." (*Johnson v. GlaxoSmithKline, Inc.* (2008) 166 Cal.App.4th 1497, 1508, fn 6.)

The doctrine of issue preclusion serves the "dual purpose of protecting litigants from the burden of relitigating an identical issue with the same party or his privy and of promoting judicial economy by preventing needless litigation." (*Sabek, Inc. v. Engelhard Corp.* (1998) 65 Cal.App.4th 992, 997.) In addition, whether the court's prior determination was correct is irrelevant, since "an erroneous judgment is as conclusive as a correct one." (*Id.* at 999.) "The party asserting collateral estoppel bears the burden of establishing these requirements." (*Johnson v. GlaxoSmithKline, Inc.* (2008) 166 Cal.App.4th 1497, 1508.)

Issue preclusion applies to bar relitigation of personal jurisdiction over Moving Defendants

Defendants Walker, Hickory Grove and Dickson Defendants move to quash based on lack of personal jurisdiction. Defendants Walker, Hickory Grove and Dickson Defendants argue Plaintiff cannot relitigate the issue of whether they have sufficient minimum contacts for

California to assert personal jurisdiction over them. Defendants Walker, Hickory Grove and Dickson rely on the February 20, 2025 order issued in federal case no. CV 24-02600-MWF (JPRx) ("Federal Action") to establish issue preclusion on the issue of personal jurisdiction (the "February 20, 2025 Order"). The Federal Court granted each of Defendants' motions to dismiss based on personal, the same grounds raised here. (Walker RJN, Ex. B.) Although the February 20, 2025 Order also addressed the motion to quash filed by MGG in the Federal Action, the Federal Court did not explicitly state that it granted MGG's motion on jurisdictional grounds, and MGG's instant motion to quash does not argue issue preclusion.

Issue preclusion can be asserted against Plaintiff

Plaintiff was a party to the Federal Action and the proceedings on February 20, 2025. The doctrine of issue preclusion may be asserted by Defendants against him.

The Federal Action adjudicated the identical issues presented by the instant Motions to Quash

Plaintiff's complaint in the Federal Action alleges the identical facts and transaction as alleged in the FAC filed in this action. (Walker RJN, ex. A; Plaintiff's FAC.) The Federal Action and the FAC allege intentional torts against each of the Defendants for fraud, conspiracy to commit fraud, common law fraudulent transfer, aiding and abetting common law fraudulent transfer, violations of Civil Code section 3439 and aiding and abetting violations of Civil Code section 3439. The motions to dismiss filed by Defendants in the Federal Action argued that they did not have sufficient contacts with California to be haled into California court to answer for the intentional torts alleged against them. The exact same course of conduct and intentional torts are alleged against them in this action. The motions to quash raise the exact same question of whether sufficient minimum contacts exist to hale Defendants into California court for those alleged acts.

Plaintiff argues the issues raised by the Motions to Quash are not identical, because the Federal Court incorrectly assumed that CBG was not based in California. Plaintiff argues the FAC in this action clarifies that CBG's principal place of business is in California, although it was incorporated in the Cayman Islands. Plaintiff argues he has added new, additional jurisdictional facts that were not presented in the Federal Action. Plaintiff also argues that in evaluating the sufficiency of Defendants' minimum contacts, California courts apply the substantial connection test while the federal courts apply the "but for" test.

The relevant inquiry to determine identity of issues is "whether the operative facts and law

relating to this action are different from the prior action." (*Daar v. Newman v. VRL International* (2005) 129 Cal.App.4th 482, 486; *MIB, Inc. v. Supr. Ct.* (1980) 106 Cal.App.3d 228, 229-230.) In *Daar*, the defendant successfully moved to quash based on lack of personal jurisdiction in a prior personal injury action alleged against it. (*Id.*) In a subsequent action for fees by its counsel in the personal injury action, defendant again moved to quash on grounds that California lacked personal jurisdiction over it, arguing collateral estoppel based on the order quashing service of the complaint summons in the personal injury action. (*Id.* at 486.) The Court of Appeals found the issues were not identical and that therefore collateral estoppel did not apply: "The operative facts and law relating to this action are different from the prior action. The plaintiff in the prior action attempted to assert jurisdiction over respondent for injuries which occurred in connection with a personal watercraft accident in Nassau, the Bahamas. Here, appellant asserts jurisdiction to recover fees directly related to appellant's retention and representation of respondent in California." (*Id.*)

Here, however, the FAC alleges the exact same claims and are based on the exact same occurrences, transactions and conduct that were alleged in the Federal Action. The operative facts and law relating to the FAC and the Federal Action are the same.

Plaintiff's assertion that the Federal Court erroneously believed CBG was not based in California does not change the result. Even if the Federal Court made such an error, an erroneous judgment is as conclusive as a correct one. (*Sabek, Inc.*, *supra*, 65 Cal.App.4th at 997.)

Plaintiff also argues he has alleged additional jurisdictional facts that were not before the Federal Court in the Federal Action. Even if that were true, however, Plaintiff has made no showing that such facts were unavailable for presentation in the Federal Action, particularly given that the court granted Plaintiff leave to amend. "A party cannot by negligence or design withhold issues and litigate them in consecutive actions. Hence the rule is that the prior judgment is res judicata on matters which were raised *or could have been raised*, on matters litigated or litigable. that they are based on Defendants' changed relationship with California." (*Warga v. Cooper* (1996) 44 Cal.App.4th 371, 378 (emphasis added).)

More fundamentally, Plaintiff's additional factual allegations do not distinguish the issue of personal jurisdiction raised here from that adjudicated in the Federal Action. "Plaintiffs cannot escape the bar of the prior decisions by asserting that those decisions were wrong, or that plaintiffs have other evidence which was not introduced in the earlier proceedings." (*MIB, Inc.*, *supra*, 106 Cal.App.3d at 235 (plaintiff was collaterally estopped from relitigating issue of personal jurisdiction based on orders from three prior actions quashing service of summons against same defendant where all three actions alleged the same course of conduct, plaintiffs did

not contend defendant changed its activity in any significant respect since earlier cases were decided and plaintiff merely maintained they made a stronger showing based on newly discovered evidence); *Sabek, Inc.*, *supra*, 65 Cal.App.4th at 996-997 (affirming trial court's granting of motion to quash based on two prior orders by different judge in same action on different prior versions of complaint despite presentation of new evidence).)

Plaintiff also argues that the issues adjudicated in the Federal Action are distinct from those presented here, because federal courts apply the "but for" test to the relatedness prong of specific jurisdiction while California state courts use the "substantial connection" test. In response, Defendants argued that after the Supreme Court's decision in *Bristol-Myers Squibb*, the California standard of relatedness is functionally identical to the federal standard. (*Bristol-Myers Squibb v. Superior Court of California, San Francisco County* (2017) 582 U.S. 255, 264.) The Court agrees with Defendants on this point.

The issue of personal jurisdiction was actually litigated and necessarily decided in the Federal Court

"An issue is actually litigated when it is properly raised, by the pleadings and otherwise, and is submitted for determination, and is determined. A determination may be based on a failure of proof. The issue is considered to have been necessarily decided if it was not entirely unnecessary to the judgment in the prior proceeding." (*Basurto v. Imperial Irrigation Dist.* (2012) 211 Cal.App.4th 866, 887.)

Whether Defendants had sufficient minimum contacts was properly raised by the motions to dismiss presented in the Federal Action and fully litigated. The February 20, 2025 Order granted the motions to dismiss with leave to amend. (Walker RJN, Ex. C.) Plaintiff chose not to amend and as a result, the Court dismissed the entire action for failure to prosecute. The Federal Court dismissed the Federal Action because it determined that it lacked personal jurisdiction over Defendants. The Federal Court's finding that Defendants lacked sufficient minimum contacts was necessarily to the Court's personal jurisdiction ruling, which precipitated the dismissal for failure to prosecute. Under these circumstances, the Federal Court actually litigated and necessarily decided whether Defendants had sufficient minimum contacts with California to assert personal jurisdiction.

Plaintiff argues that because the February 20, 2025 Order included a ruling based on subject matter jurisdiction, the ruling on personal jurisdiction was therefore unnecessary. However, the Federal Court's February 20, 2025 Order expressly stated it was evaluating all jurisdictional arguments, and the order addressed personal jurisdiction as its first priority in the ruling.

(Walker RJN, Ex. C.) The Federal Court evaluated personal jurisdiction as to each set of Defendants, except MGG, and granted each motion to dismiss expressly on grounds of lack of personal jurisdiction. The February 20, 2025 Order leaves no doubt that the Federal Court granted the motions to dismiss on personal jurisdiction grounds. The only reference to subject matter jurisdiction, on the other hand, is tentative, advisory and not necessary to the motion to dismiss: "The Court *intends* to decline to exercise supplemental jurisdiction over the remaining state law claims." (Walker RJN, Ex. C, p. 26 (emphasis added).) More importantly, even if the February 20, 2025 Order were based on two separate grounds, issue preclusion would apply to both, so long as they were not entirely unnecessary to the judgment. (*Samara v. Matar* (2018) 5 Cal.5th 322, 327.) Here, Plaintiff has failed to establish that the ruling on personal jurisdiction as to Walker, Hickory Grove and Dickson Defendants was entirely unnecessary to the February 20, 2025 Order and the subsequent dismissal.

The issue of personal jurisdiction was finally adjudicated

For purposes of issue preclusion, as distinguished from claim preclusion, "'final judgment' includes any prior adjudication of an issue in another action that is determined to be sufficiently firm to be accorded conclusive effect." (*Meridian Financial Services, Inc. v. Phan* (2021) 67 Cal.App.5th 657, 688.)

"[W]hether a particular judgment is sufficiently firm to be accorded conclusive effect, courts should determine that the decision to be carried over was adequately deliberated and firm, even if not final in the sense of forming a basis for a judgment already entered. Thus preclusion should be refused if the decision was avowedly tentative. On the other hand, that the parties were fully heard, that the court supported its decision with a reasoned opinion, that the decision was subject to appeal or was in fact reviewed on appeal, are factors supporting the conclusion that the decision is final for the purpose of preclusion. 'Finality' in the context here relevant may mean little more than that the litigation of a particular issue has reached such a stage that a court sees no really good reason for permitting it to be litigated again." (*Id.*)

"Finality for purposes of issue preclusion is not the same as the finality essential to claim preclusion. Pursuant to this distinction, a litigation may have reached a stage at which issue preclusion is appropriate even though claim preclusion—application of the rules of merger and bar—is not. In such cases, although ... the plaintiff is not precluded from maintaining a new action on the same cause of action, he is precluded from relitigating the very question which was litigated in the prior action." (*Sabek, Inc.*, *supra*, 65 Cal.App.4th at 997.)

The Federal Action was dismissed without prejudice for lack of prosecution on March 27, 2025,

after Plaintiff failed to file a Second Amended Complaint in accordance with the February 20, 2025 Order. The Federal Court's February 20, 2025 Order and its dismissal on March 27, 2025 were not tentative. The February 20, 2025 Order was adopted after a full hearing on the merits. The order contained 28 pages of detailed, reasoned analysis regarding the court's lack of personal jurisdiction over Defendants and Defendants' lack of minimum contacts. (Walker RJN, Ex. C.) The Court indicated in its February 20, 2025 Order that it "remain[ed] skeptical" that the deficiencies raised therein could be cured but granted Plaintiff one last opportunity to do so. (Walker RJN, Ex. C, p. 28.) The fact that the Federal Court granted leave to amend did not render the February 20, 2025 Order tentative or not final or adequately firm for purposes of issue preclusion. Any lack of finality for purposes of issue preclusion ceased to exist once Plaintiff failed to amend and the order of dismissal was entered on March 27, 2025.

Plaintiff argues neither the Rule 41(b) Order nor the February 20, 2025 Order were appealable and they were interlocutory. However, Plaintiff also admits that the practical effect was to close the case on the docket of the Federal Court, although Plaintiff had the option to return to file a second case. Under these circumstances, the February 20, 2025 Order and March 27, 2025 dismissal were sufficiently final on the issue of personal jurisdiction over Defendants Walker, Hickory Grove and Dickson Defendants that there is "no really good reason for permitting it to be litigated again." (*Meridian Financial Services, Inc.*, *supra*, 67 Cal.App.5th at 688.)

Plaintiff was also given leave to amend the Federal FAC in order to cure the defects raised in the motions to dismiss, including the failure to establish personal jurisdiction. Plaintiff chose not to amend. "Having decided not to pursue the remedy available to it, [plaintiff] should not now be able to contend that the order is not a final adjudication of the issues it addressed." (*Border Business Park, Inc. v. City of San Diego* (2006) 142 Cal.App.4th 1538, 1565 (order sustaining demurrer without leave to amend was sufficiently final to support issue preclusion in subsequent action; plaintiff "acquiesced" to ruling by failing to obtain final judgment and filing an appeal and instead promptly presenting Government Code claim); *see also Baker v. Bay Area Toll Authority* (2026) 120 Cal.App.5th 1254, 1272.)

Equitable Considerations

Even if all the requirements for issue preclusion "are satisfied, however, a court must analyze the public policies underlying the doctrine before concluding that collateral estoppel should be applied in a particular case." (*Johnson*, *supra,* 166 Cal.App.4th at 1508.) "[T]he underlying policy of claim preclusion (as well as issue preclusion) is to preclude parties from contesting matters that they have had a full and fair opportunity to litigate, thereby protecting their adversaries from the expense and vexation attending multiple lawsuits, conserving judicial

resources, and fostering reliance on judicial action by minimizing the possibility of inconsistent decisions." (*Gray v. La Salle Bank, N.A.* (2023) 95 Cal.App.5th 932, 949.)

Plaintiff argues that even if the technical requirements are met, the Court should decline to apply issue preclusion here based on equitable considerations. Plaintiff argues the public policy interests underlying the doctrine would not be satisfied here.

The Court disagrees. These policy considerations favor application of issue preclusion. Plaintiff is relitigating an issue that was fully and finally decided in the Federal Action. Rather than file an amended complaint per the February 20, 2025 Order, Plaintiff chose to re-file his complaint in state court. Issue preclusion was intended to protect against precisely this type of re-litigation of previously and finally determined issues.

Conclusion

Defendants Walker, Hickory Grove/Roche and Dickson Defendants' Motions to Quash based on lack of personal jurisdiction are granted. Plaintiff is barred by the doctrine of issue preclusion from relitigating these issues. Defendants Walker's, Hickory Grove/Roche's and Dickson Defendants' Demurrers are moot in light of the ruling on their motions to quash.

MGG's Motion to Quash based on Lack of Personal Jurisdiction

Defendant MGG moves to quash on grounds of lack of personal jurisdiction. In opposition, Plaintiff only asserts specific jurisdiction over MGG, although it reserves the right to assert general jurisdiction in the future.

Applicable Law

"When a defendant moves to quash service of process on jurisdictional grounds, the plaintiff has the initial burden of demonstrating facts justifying the exercise of jurisdiction. Once facts showing minimum contacts with the forum state are established, however, it becomes the defendant's burden to demonstrate that the exercise of jurisdiction would be unreasonable." (*Vons Companies, Inc. v. Seabest Foods, Inc.* (1996) 14 Cal.4th 434, 445.)

"[A] plaintiff cannot merely allege jurisdictional facts, but must provide affidavits and other authenticated documents in order to demonstrate competent evidence of jurisdictional facts.... Declarations cannot be mere vague assertions of ultimate facts, but must offer specific evidentiary facts permitting a court to form an independent conclusion on the issue of

jurisdiction." (*CenterPoint Energy, Inc. v. Supr. Ct.* (2007) 157 Cal.App.4th 1101, 1118.)

"For a state to assert specific jurisdiction, the defendant must take some act by which it purposefully avails itself of the privilege of conducting activities within the forum State. The contacts must be the defendant's own choice and not random, isolated, or fortuitous. They must show that the defendant deliberately reached out beyond its home—by, for example, exploiting a market in the forum State or entering a contractual relationship centered there. Yet even then—because the defendant is not 'at home'—the forum State may exercise jurisdiction in only certain cases. The plaintiff's claims must arise out of or relate to the defendant's contacts' with the forum." (*L.G. Chem, Ltd. v. Supr. Ct. of San Diego Cty.* (2022) 80 Cal.App.5th 348, 361.)

"The inquiry whether a forum State may assert specific jurisdiction over a nonresident defendant focuses on the relationship among the defendant, the forum, and the litigation. A court may exercise specific jurisdiction over a nonresident defendant only if: (1) the defendant has purposefully availed itself of forum benefits; (2) the plaintiff's claims are related to or arise out of the defendant's contacts with the forum state; and (3) the forum state's assertion of personal jurisdiction would comport with fair play and substantial justice." (*Id.*)

Purposeful Availment

Pursuant to *Calder v. Jones* (1984) 465 U.S. 783, a nonresident, intentional tortfeasor is subject to a forum state's jurisdiction if "intentional, and allegedly tortious, actions were expressly aimed at California." (*Calder, supra*, 465 U.S. at 789.) Under the *Calder* effects test, "plaintiff must show not only that the defendant caused harm, the brunt of which is suffered and which the defendant knows is likely to be suffered in the forum state, but also that the defendant committed an intentional act expressly aimed at the forum state. Indeed, virtually every jurisdiction has held that the Calder effects test requires intentional conduct expressly aimed at or targeting the forum state in addition to the defendant's knowledge that his intentional conduct would cause harm in the forum." (*Pavlovich v. Supr. Ct.* (2002) 29 Cal.App.4th 262, 269 (defendant's misappropriation and posting of plaintiff's source code did not satisfy the *Calder* effects test where defendant did not know plaintiff was based in California or that code belonged specifically to plaintiff).)

The *Calder* effects test has been applied to cases alleging intentional torts, such as defamation, libel or business torts like intentional interference with contract. (*ParaFi Digital Opportunities LP v. Egorov* (2025) 108 Cal.App.5th 124, 138; *Jewish Defense Organization, Inc. v. Superior Court* (1999) 72 Cal.App.4th 1045, 1057.) The effects test "requires express aiming at the forum (not necessarily at the plaintiff)." (*ParaFi Digital Opportunities LP*, *supra*, 108 Cal.App.5th at

138.)

"[M]ere injury to a forum resident is not a sufficient connection to the forum. Regardless of where a plaintiff lives or works, an injury is jurisdictionally relevant only insofar as it shows that the defendant has formed a contact with the forum State. The proper question is not where the plaintiff experienced a particular injury or effect but whether the defendant's conduct connects him to the forum in a meaningful way." (*Walden v. Fiore* (2014) 571 U.S. 277, 290.)

Plaintiff argues MGG's correspondence with California lawyers satisfy the effects test. Plaintiff argues California was the focus of the Defendants' intentional torts, because (1) CBG had its principal place of business and office in Los Angeles; (2) RAAD, the shell entity to which the Collateral was fraudulently transferred, was organized and doing business in California; (3) Roseman, CEO of CBG, and Plaintiff were California residents at the time of the loan and Asset Transfers; (4) all loan documents were signed by Plaintiff in California; and (5) the Collateral included California assets. Plaintiff argues although these acts were taken in connection with a liquidation in Cayman Islands, they were aimed at California.

Plaintiff argues MGG also knew that its acts would likely cause harm in California. Plaintiff argues MGG knew that Plaintiff was a California resident and he had rights in California under the Note, Amendment and Pledge.

The emails relied upon by Plaintiff are insufficient to establish MGG's "intentional, allegedly tortious, conduct" "expressly aimed" at California. (*Calder*, *supra*, 465 U.S. at 789.) The emails do not discuss any substantive matters. For the most part, the emails request signatures, inform parties that signatures have been obtained or provide short, two to three line updates on the liquidation. (Meehan Dec., Exs. A-D.) The Court could only identify one email that was sent by MGG from djoell@mgginv.com dated September 20, 2026. (Meehan Dec., Ex. B.) The email was two sentences and merely convey a message from "SRZ" and asked if a quick sign off call could be arranged. (*Id.*) MGG was also listed as a recipient on two emails. (*Id.*) These attenuated contacts with California do not establish satisfy the effects test. Under the effects test, Plaintiff is required to demonstrate that MGG "formed a contact with the forum State" and that those contacts connected MGG California "in a meaningful way." (*Walden*, *supra*, 571 U.S. at 290.) The emails identified by Plaintiff do not satisfy this requirement. The "ordinary use of the mails, telephone, or other international communications simply do not qualify as purposeful activity invoking the benefits and protection of the forum state," particularly where it was not the defendant who initiated the communications. (*ParaFi Digital Opportunities LP*, *supra*, 108 Cal.App.5th at 140 (applying contracts test).)

In their opposition papers, Plaintiff relies heavily *other* defendants' contacts with the forum. The law is clear, however, that in establishing purposeful availment, Plaintiff must rely solely on MGG's contacts. "Where conspiracy is alleged, an exercise of personal jurisdiction must be based on forum-related acts that were personally committed by each nonresident defendant, and acts of an alleged co-conspirator cannot be imputed to establish jurisdiction over the third party defendant." (*CenterPoint Energy, Inc. v. Superior Court* (2007) 157 Cal.App.4th 1101, 1118.)

Plaintiff fails to establish purposeful availment as to MGG. For this reason, the Court need not reach the relatedness prong or address MGG's claim that assertion of jurisdiction would be unreasonable.

Plaintiff's Request for Jurisdictional Discovery

"A trial court has the discretion to continue the hearing on a motion to quash service of summons for lack of personal jurisdiction to allow the plaintiff to conduct discovery on jurisdictional issues." (*HealthMarkets, Inc. v. Superior Court* (2009) 171 Cal.App.4th 1160, 1173.) "A plaintiff is generally entitled to conduct discovery with regard to a jurisdictional issue before a court rules on a motion to quash." (*Goehring v. Superior Court* (1998) 62 Cal.App.4th 894, 911.) "The plaintiff has the right to conduct discovery with regard to the issue of jurisdiction to develop the facts necessary to sustain this burden." (*Mihlon v. Superior Court* (1985) 169 Cal.App.3d 703, 710.)

To prevail on a request "for jurisdictional discovery, the plaintiff should demonstrate that discovery is likely to lead to the production of evidence of facts establishing jurisdiction." (*In re Automobile Antitrust Cases I & II* (2005) 135 Cal.App.4th 100, 127.) A continuance may be denied if there is no showing that discovery would likely produce evidence of additional "contacts." (*Beckman v. Thompson* (1992) 4 Cal.App.4th 481, 486–487.) Continuances are within the sound discretion of the court.

Plaintiff requested leave to conduct jurisdictional discovery in his initial opposition. Since that time jurisdictional discovery was propounded and an informal discovery conference held on July 20, 2026. Plaintiff did not file a supplemental opposition as to MGG's Motion to Quash requesting additional discovery and any request for additional jurisdictional discovery is therefore moot. Moreover, Plaintiff has not demonstrated that jurisdictional discovery is likely to lead to production of evidence of facts establishing jurisdiction.

Conclusion

Defendant MGG's Motion to Quash is granted. In light of this ruling, Defendant MGG's demurrer to the FAC is moot.

Sheppard Mullin Demurrer

Sheppard Mullin demurs to the four causes of action alleged against it in the FAC: (1) the first cause of action for fraud; (2) the second cause of action for conspiracy to commit fraud; (3) the fourth cause of action for aiding and abetting common law fraud; and (4) the sixth cause of action for aiding and abetting violations of Civil Code section 3439. Sheppard Mullin argues (1) the causes of action fail to state a claim against it because it did not owe Plaintiff any duty of disclosure; (2) the agent's immunity rule bars the causes of action; (3) Plaintiff failed to comply with Civil Code section 1714.10; and (4) the causes of action are barred by the statute of limitations.

First cause of action for fraud

Plaintiff's fraud cause of action is based on Sheppard Mullin's conduct alleged at ¶72 of the FAC. (FAC, ¶¶72, 135.) Plaintiff alleges Sheppard Mullin failed to disclose the reason why the Cayman Court rejected his Proof of Debt in the liquidation proceeding, specifically that the collateral had been transferred out of CBG. (FAC, ¶72.) Plaintiff alleges he directly asked Don Williams of Sheppard Mullin for an explanation of the JOL's rejection of his Proof of Debt, despite the Note and Pledge Agreement and repeated assurances by CBG that he was fully covered by both documents. (*Id.* at ¶72.) In response, Don Williams is alleged to have stated that CBG would do nothing. (*Id*.) Plaintiff alleges, "[d]espite his knowledge of the Asset Transfers and duty to disclose to Bobulinski the fact that certain of the assets that secured his loan had been transferred out of the company, Williams failed to disclose these facts to Bobulinski, CBG's senior secured creditor." (*Id.*) Plaintiff's fraud claim against Sheppard Mullin is therefore one for concealment – a concealment that is not related to the contents or effect of the underlying Note, Amendment or Pledge Agreement. Rather, the concealment is based on Sheppard Mullin's failure to disclose the Asset Transfers as the reason for JOL's rejection of his Proof of Debt.

"The required elements for fraudulent concealment are: (1) concealment or suppression of a material fact; (2) by a defendant with a duty to disclose the fact to the plaintiff; (3) the defendant intended to defraud the plaintiff by intentionally concealing or suppressing the fact; (4) the plaintiff was unaware of the fact and would not have acted as he or she did if he or she had known of the concealed or suppressed fact; and (5) plaintiff sustained damage as a result of the concealment or suppression of the fact." (*Graham v. Bank of America, N.A*. (2014) 226

Cal.App.4th 594, 606.)

There are "four circumstances in which nondisclosure or concealment may constitute actionable fraud: (1) when the defendant is in a fiduciary relationship with the plaintiff; (2) when the defendant had exclusive knowledge of material facts not known to the plaintiff; (3) when the defendant actively conceals a material fact from the plaintiff; and (4) when the defendant makes partial representations but also suppresses some material facts." (*LiMandri v. Judkins* (1997) 52 Cal.App.4th 326, 336.) A duty to disclose in the absence of a fiduciary relationship and in "each of the other three circumstances in which nondisclosure may be actionable presupposes the existence of some other relationship between the plaintiff and defendant in which a duty to disclose can arise." (*Id*. at 336-337 (counsel for debtors could not state a c/a for concealment against counsel for creditors, because there was no relationship or transaction between the two attorneys that would give rise to a duty of disclosure).)

Here, Plaintiff fails to allege any factual basis that would support imposing a duty on Sheppard Mullin to disclose the Asset Transfers to Plaintiff when he asked Williams why the JOL rejected his Proof of Debt. Sheppard Mullin is clearly not Plaintiff's fiduciary. Sheppard Mullin represented CBG in the loan/investment transaction between Plaintiff and CBG. There are no affirmative acts of concealment alleged against Sheppard Mullin, nor was Williams's response that CBG would do nothing a partial representation regarding the Asset Transfers or why the JOL rejected Plaintiff's proof of debt. There is also no allegation that Sheppard Mullin had exclusive knowledge of the material facts.

More fundamentally, Plaintiff does not allege a relationship between the plaintiff and defendant "in which a duty to disclose can arise." (*LiMandri*, *supra*, 52 Cal.App.4th at 336.) A "duty to disclose may arise from the relationship between seller and buyer, employer and prospective employee, doctor and patient, or parties entering into any kind of contractual agreement…All of these relationships are created by transactions between parties from which a duty to disclose facts material to the transaction arises under certain circumstances." (*Id.* at 337.) Plaintiff had no direct relationship with Sheppard Mullin and Sheppard Mullin's only contact with Plaintiff was as CBG's attorney. While Sheppard Mullin drafted the Note, Amendment and Pledge Agreement as counsel for CBG, that does not create a relationship with Plaintiff, nor does it qualify as a transaction that would require Sheppard Mullin to explain to Plaintiff why his Proof of Debt was rejected.

Moreover, Plaintiff asks that the Court impose a duty on CBG's counsel to disclose information that would have been detrimental to its client. In order to impose a duty, the circumstances must clearly support a finding that the transactions and relationship between Plaintiff and Sheppard

Mullin would support such a duty. (*See e.g. Heliotis v. Schuman* (1986) 181 Cal.App.3d 646, 650 (attorney for sellers did not have duty to disclose property's soil instability to buyer; imposition of such a duty under circumstances would "compromise the underpinnings of the attorney-client relationship, an attorney's duties to his or her client to keep confidences, to zealously represent the client and to give undivided loyalty to the client").) Plaintiff fails to allege such circumstances.

The case law on which Plaintiff relies is distinguishable. In *Pavicich v. Santucci* (2000) 85 Cal.App.4th 382, the defendants responded to plaintiff investor's direct inquiry "if there was anything he should know about the early stages of the brew pub project." (*Pavicich*, *supra*, 85 Cal.App.4th at 397.) In response, the defendants made a material misrepresentation and a partial disclosure that was misleading. Defendants identified potential issues relating to two businessmen, but they affirmatively stated that all issues had been resolved by a legally binding release executed by them. (*Id.*) In reality, the two businessmen were actively and affirmatively claiming that the release was procured by fraud and threatening litigation. (*Id.*) The court found plaintiff alleged sufficient grounds to impose a duty on the defendants to disclose the truth. (*Id.*)

Here, Plaintiff asked Defendant Williams why his Proof of Debt was rejected by the JOL. In response, Williams did not make an affirmative misrepresentation regarding the reasons for the rejection, nor did he make partial disclosures regarding the reasons for the rejection that were misleading. Williams was essentially non-responsive. Williams merely stated that CBD would do nothing, revealing nothing about why the Proof of Debt was rejected.

Similarly, Williams' non-response does not qualify as an actionable half-truth. In *Vega v. Jones, Day, Reavis & Pogue* (2004) 121 Cal.App.4th 282, for example, the defendant "specifically undertook to disclose the transaction and, having done so, is not at liberty to conceal a material term. Even where no duty to disclose would otherwise exist, where one does speak he must speak the whole truth to the end that he does not conceal any facts which materially qualify those stated. One who is asked for or volunteers information must be truthful, and the telling of a half-truth calculated to deceive is fraud." (*Vega*, *supra*, 121 Cal.App.4th at 292.) Here, Williams did not offer any information and did not attempt to respond to Plaintiff's inquiry with a half-truth. Plaintiff alleges Williams responded that CBG would do nothing, which does not in any way attempt to explain why Plaintiff's Proof of Debt was rejected.

For these reasons, Plaintiff's fraud cause of action fails to state a claim against Sheppard Mullin. Plaintiff fails to establish that the defect is reasonably capable of cure with leave to amend. As such, Sheppard Mullin's demurrer to the first cause of action for fraud is sustained without leave to amend.

Second cause of action for conspiracy to commit fraud

"Conspiracy is not a cause of action, but a legal doctrine that imposes liability on persons who, although not actually committing a tort themselves, share with the immediate tortfeasors a common plan or design in its perpetration. By participation in a civil conspiracy, a coconspirator effectively adopts as his or her own the torts of other coconspirators within the ambit of the conspiracy. In this way, a co-conspirator incurs tort liability co-equal with the immediate tortfeasors." (*Applied Equipment Corp. v. Litton Saudi Arabia Ltd*. (1994) 7 Cal.4th 503, 510. "As long as two or more persons agree to perform a wrongful act, the law places civil liability for the resulting damages on all of them, regardless of whether they actually commit the tort themselves." (*Wyatt v. Union Mortgage Co*. (1979) 24 Cal.3d 773, 784.)

Under the "agent's immunity rule," agents and employees of a corporation cannot conspire with their corporate principal or employer where they act in their official capacities on behalf of the corporation and not as individuals for their individual advantage. (*Applied Equipment Corp.*, *supra*, 7 Cal.4th at 512; *Black v. Bank of America* (1994) 30 Cal.App.4th 1, 4.) "The relationship of attorney and client is one of agent and principal." (*Shafer v. Berger, Kahn, Shafton, Moss, Figler, Simon & Gladstone* (2003) 107 Cal.App.4th 54, 69.) An exception to this rule exists where the agent engages in conduct "as individuals for their individual advantage and not solely on behalf of the principal." (*Doctors' Co. v. Supr. Ct*. (1989) 49 Cal.3d 39, 47.)

"[T]wo settings in which a conspiracy claim might lie against an attorney for participating in the violation of a duty owed by the client to another: (1) where the attorney violates a duty that he or she independently owes to the plaintiff; and (2) where the attorney's acts go beyond the performance of a professional duty owed to the client and are, in addition, done for his or her own personal financial gain. … Both of these settings, by definition, involve conduct of the attorney in which he or she acts not just as an agent for a principal, the client, but also for himself or herself independently. In these settings then, it is appropriate that the agent's immunity rule does not protect the attorney's conduct, for he or she is acting in more than just a representative capacity." (*Berg & Berg Enterprises, LLC v. Sherwood Partners, Inc.* (2005) 131 Cal.App.4th 802, 817–818.)

The FAC alleges at all relevant times that Sheppard Mullin was acting as CBG's counsel. As CBG's agent, Sheppard Mullin could not conspire with CBG. As such, Plaintiff's FAC fails to allege conspiracy against Sheppard Mullin.

Plaintiff argues in opposition that Sheppard Mullin owed him an independent duty and that

therefore the agent's immunity rule is inapplicable. As discussed in connection with the fraud claim, Plaintiff fails to allege sufficient facts that would establish that Sheppard Mullin violated a duty that it owed Plaintiff independently.

In addition, the case law on which Plaintiff relies is entirely distinguishable. In *Burtscher v. Burtscher* (1994) 26 Cal.App.4th 720, the attorney "went way beyond the role of legal representative" and engaged in "self help" to unilaterally retake physical possession of a residential property with the client. (*Burtscher*, *supra*, 26 Cal.App.4th at 727.) In *Rickley v. Goodfriend* (2013) 212 Cal.App.4th 1136, 1154-1155, the attorneys intentionally interfered with court-ordered remediation by repeatedly contacting contractors without court approval and misdirecting work of contractors' employees, engaging in "affirmative misconduct." (*Rickley*, *supra*, 212 Cal.App.4th at 1155-1156.) None of the conduct alleged against Sheppard Mullin approaches affirmative misconduct outside the ordinary role of an attorney.

Plaintiff also argues that the second exception applies to the agent's immunity rule based on Sheppard Mullin's acts beyond the bounds of advocacy for its own financial gain. "Cases have interpreted the 'financial advantage' exception to the agent's immunity rule to mean a personal advantage or gain that is over and above ordinary professional fees earned as compensation for performance of the agency." (*Berg & Berg Enterprises, LLC*, *supra*, 131 Cal.App.4th at 834.) Plaintiff argues Defendant Williams received reports from the JOL's and that he was "on the liquidation committee." (FAC, ¶¶8, 75.) Neither of these allegations establish that Williams was acting outside of the ordinary scope of an attorney's role, nor do they indicate that Sheppard Mullin was receiving a personal advantage or gain over and above ordinary professional fees.

Plaintiff's second cause of action for conspiracy to commit fraud fails to state a cause of action against Sheppard Mullin based on the agent's immunity rule. Accordingly, Sheppard Mullin's demurrer to the second cause of action is sustained without leave to amend.

Fourth and sixth causes of action for aiding and abetting fraud and violation of Civil Code section 3439

"A corporate employee cannot conspire with his or her corporate employer; that would be tantamount to a person conspiring with himself. Thus when a corporate employee acts in his or her authorized capacity on behalf of his or her corporate employer, there can be no claim of conspiracy between the corporate employer and the corporate employee. In such a circumstance, the element of concert is missing. Similar reasoning applies to aiding and abetting." (*Janken v. GM Hughes Electronics* (1996) 46 Cal.App.4th 55, 78; *Fiol v. Doellstedt* (1996) 50 Cal.App.4th 1318, 1326 ("An employee cannot aid and abet his or her corporate employer").)

For the reasons discussed in connection with the second cause of action for conspiracy to commit fraud, Plaintiff's fourth and sixth cause of action for aiding and abetting fraud and violation of Civil Code section fail to state a cause of action against Sheppard Mullin. Accordingly, Sheppard Mullin's demurrer to the fourth and sixth causes of action is sustained without leave to amend.

Civil Code section 1714.10

In addition to the arguments above, Sheppard Mullin also argues that all causes of action against Sheppard Mullin are barred for failure to comply with Civil Code Section 1714.10. "No cause of action against
an attorney for a civil conspiracy with his or her client arising from any attempt to contest or compromise a claim or dispute, and which is based upon the attorney's representation of the client, shall be included in a complaint or other pleading unless the court enters an order allowing the pleading that includes the claim for civil conspiracy to be filed after the court determines that the party seeking to file the pleading has established that there is a reasonable probability that the party will prevail in the action." (Civ. Code §1714.10(a).)

"Failure to obtain a court order where required by subdivision (a) shall be a defense to any action for civil conspiracy filed in violation thereof. The defense shall be raised by the attorney charged with civil conspiracy upon that attorney's first appearance by demurrer, motion to strike, or such other motion or application as may be appropriate. Failure to timely raise the defense shall constitute a waiver thereof." (Civ. Code §1714.10(b).)

"This section shall not apply to a cause of action against an attorney for a civil conspiracy with his or her client, where (1) the attorney has an independent legal duty to the plaintiff, or (2) the attorney's acts go beyond the performance of a professional duty to serve the client and involve a conspiracy to violate a legal duty in furtherance of the attorney's financial gain." (Civ. Code §1714.10(c).)

"Applying section 1714.10 thus requires the court to initially determine whether the pleading falls either within the coverage of the statute or, instead, within one of its stated exceptions. This determination pivots, in turn, on whether the proposed pleading states a viable claim for conspiracy against the attorney. For all intents and purposes, this is the determinative question. If such a claim is stated, the analysis ends before reaching evidentiary considerations; the statute does not apply because the claim necessarily falls under one of its exceptions. If it is not stated, the analysis likewise ends, but with the opposite result; the pleading is disallowed for its failure

to meet the initial gatekeeping hurdle of the statute." (*Berg & Berg Enterprises, LLC*, *supra,* 131 Cal.App.4th at 818.)

Plaintiff's second cause of action alleges conspiracy to commit fraud against Sheppard Mullin, a law firm and an attorney. As discussed in connection with the second cause of action, a viable cause of action for conspiracy is not stated because the agent's immunity rule and no exception thereto applies. For this same reason, section 1714.10 applies and the FAC is disallowed for failure to satisfy its pre-filing requirement. Accordingly, Defendants' demurrer to the FAC is sustained without leave to amend.

Statute of Limitations

Sheppard Mullin also demurs to the four causes of action alleged against it based on statute of limitations. Because the Court sustains the demurrer without leave to amend on other grounds, it need not reach this issue. Nevertheless, the Court briefly addresses the statute of limitation arguments below.

A demurrer based on statute of limitations can only be sustained where the dates on the face of the complaint clearly and affirmatively establish that the action is time-barred. (*Roman v. County of Los Angeles* (2000) 85 Cal.App.4th 316, 324-325 ("If the dates establishing the running of the statute of limitations do not clearly appear in the complaint, there is no ground for general demurrer"); *CrossTalk Productions, Inc. v. Jacobson* (1998) 65 Cal.App.4th 631, 635 ("demurrer based on an affirmative defense cannot properly be sustained where the action might be barred by the defense, but is not necessarily barred.")

Code of Civil Procedure section 340.6

Sheppard Mullin argues Code of Civil Procedure section 340.6 applies to Plaintiff's claims against it. However, as Sheppard Mullin concedes, section 340.6 applies to causes of action by an "attorney's clients or their intended beneficiaries." (*Escamilla v. Vannucci* (2025) 17 Cal.5th 571, 587.) Section 340.6 was not intended to "extend to claims brought by nonclients for wrongs allegedly done to them." (*Id.*) Plaintiff was not Sheppard Mullin's client, nor does the FAC allege facts indicating Plaintiff was an intended beneficiary of Sheppard Mullin's legal services. Plaintiff was CMB's investor and lender. As such, Section 340.6 does not apply to Plaintiff's claims and demurrer on that ground fails.

Civil Code section 3439.09 subdivision (c)

Sheppard Mullin argues the statute of repose under Civil Code section 3439.09 subdivision (c) bars statutory or common law causes of action for fraudulent transfer brought more than seven years after the alleged transfer. "Notwithstanding any other provision of law, a cause of action under this chapter with respect to a transfer or obligation is extinguished if no action is brought or levy made within seven years after the transfer was made or the obligation was incurred." (Civ. Code, §3439.09, subd. (c).)

The seven year period begins to run from the date of the "last culpable act." (*PGA West Residential Assn., Inc. v. Hulven Internat., Inc.* (2017) 14 Cal.App.5th 156, 177, 187, fn. 24.) Based on Plaintiff's FAC, CBG was "cleared of key assets" by September 20, 2016. (FAC, ¶10.) Plaintiff alleges those assets included the Collateral. (*Id.*) Based on the FAC, the seven year statute of repose began to run on September 20, 2016 and any action for fraudulent transfer had to be brought by September 20, 2023.

Plaintiff does not allege any facts that would plead his claims out of the statute of repose. Although Plaintiff argues in opposition that it is unclear from the complaint when the last culpable act took place, Plaintiff fails to allege any facts explaining or qualifying the clear allegation that the assets were "cleared" from CBG by September 20, 2016. Because section 3439.09 subdivision (c) is a statute of repose, "it is the plaintiff who must plead facts showing their substantive right has not been extinguished by a statute of repose." (*PGA West Residential Assn., Inc.*, *supra*, 14 Cal.App.5th at 178.) Plaintiff does not plead these facts, nor does Plaintiff state them in opposition. Defendant's demurrer to the sixth cause of action for aiding and abetting fraudulent transfer is sustained without leave to amend.

Code of Civil Procedure section 338

Defendant argues the fraud and conspiracy to commit fraud claims are time-barred under Code of Civil Procedure section 338 subdivision (d). Section 338 subdivision (d) imposes a three-year statute of limitations on "an action for relief on the ground of fraud or mistake. The cause of action is not deemed to have accrued until the discovery, by the aggrieved party, of the facts constituting the fraud or mistake."

"The courts interpret discovery in this context to mean not when the plaintiff became aware of the specific wrong alleged, but when the plaintiff suspected or should have suspected that an injury was caused by wrongdoing. The statute of limitations begins to run when the plaintiff has information which would put a reasonable person on inquiry. A plaintiff need not be aware of the specific facts necessary to establish a claim since they can be developed in pretrial discovery. Wrong and wrongdoing in this context are understood in their lay and not legal senses." (*Kline*

v. Turner (2001) 87 Cal.App.4th 1369, 1374.) "Generally, statute of limitations issues raise questions of fact that must be tried, however, when the uncontradicted facts are susceptible of only one legitimate inference, summary judgment is proper." (*Id.* at 1374.)

Here, Plaintiff had inquiry notice of his claims by, at the latest, February 21, 2019, when he filed *Bobulinski v. Roseman,* Case No. 19STCV06065 ("*Roseman*"). Plaintiff's Proof of Debt was rejected on June 14, 2017 by the Cayman Court. (FAC, ¶71.) Plaintiff sued CBG's former CEO, Roseman, on February 21, 2019 for fraud based on Roseman's alleged misrepresentation that CBG owned the Collateral at the time the Note, Amendment and Pledge Agreement were entered into. (FAC, ¶78.) On September 18, 2020, Plaintiff alleges he received documents relating to Remark's 2016 acquisition of CBG. (*Id.* at ¶90.) On March 31, 2021, Roseman produced a series of assignment agreements showing the transfer of assets from CBG to RAAD. (FAC, ¶92.) Roseman also affirmatively denied that there were any transfers of any licenses to any subsidiaries of CBG. (FAC, ¶93.) At Roseman's deposition on April 15, 2021, Roseman testified that the assets transferred to RAAD were Plaintiff's Collateral and that the Cayman Court found CBG had no assets to secure Plaintiff's loan because the Collateral had been transferred to RAAD. (FAC, ¶94.) Up until that time, Plaintiff alleges that he believed he was injured as a result of Roseman's fraudulent misrepresentation that the Collateral was owned by CBG when it had "never been owned" by CBG. (Sheppard Mullin's RJN, Ex. C, *Roseman* Complaint, ¶¶31, 34.)

Based on these allegations, Plaintiff had notice of both his injury and a suspicion that wrongdoing caused that injury on February 21, 2019. Plaintiff's decision to file a fraud lawsuit against Roseman for the same injury alleged here establishes inquiry notice as a matter of law.

Relying on *Fox v. Ethicon* (2005) 35 Cal.4th 797, 808, Plaintiff argues he sufficiently pleads delayed discovery of the alleged fraud. Plaintiff argues the alleged fraud is different from that alleged in *Roseman* and despite his direct questioning of Defendant Williams after denial of his Proof of Debt, he did not know that his Collateral had been transferred to RAAD. Plaintiff argues he did not know the named defendants in this action were involved in the destruction of his Collateral until Roseman's deposition.

Plaintiff's ignorance of the identity of the named defendants would not delay accrual of the fraud claim. "The discovery rule…allows accrual of the cause of action even if the plaintiff does not have reason to suspect the defendant's identity. The discovery rule does not delay accrual in that situation because the identity of the defendant is not an element of a cause of action." (*Fox v. Ethicon* (2005) 35 Cal.4th 797, 807.)

In addition, Plaintiff's FAC is not based on an entirely different wrongdoing that would support delayed accrual of Plaintiff's fraud claim despite the *Roseman* action. "More broadly stated, if a plaintiff's reasonable and diligent investigation discloses only one kind of wrongdoing when the injury was actually caused by tortious conduct of a wholly different sort, the discovery rule postpones accrual of the statute of limitations on the newly discovered claim." (*Fox*, *supra*, 35 Cal.4th at 813.) "[A] diligent plaintiff's investigation may only disclose an action for one type of tort (e.g., medical malpractice) and facts supporting an entirely different type of tort action (e.g., products liability) may, through no fault of the plaintiff, only come to light at a later date." (*Id.* at 814.)

Unlike the medical malpractice and products liability claims in *Fox,* Plaintiff's instant fraud claim is not based on wrongdoing that is "of a wholly different sort," nor is it a different type of tort action from that alleged in *Roseman.* Plaintiff alleges a slightly different fraudulent act in the FAC, but the alleged tort is still fraud.

Plaintiff therefore fails to allege delayed discovery beyond February 21, 2019 when he filed *Roseman*. Plaintiff filed the Federal Action on March 29, 2024, more than three years after the *Roseman* action was filed. Plaintiff's fraud claim is therefore clearly and affirmatively time barred.

Tolling

Plaintiff argues in opposition that the statutes of limitation on all claims were tolled by (1) Code of Civil Procedure section 356 and issue preclusion; (2) equitable tolling; and (3) estoppel. Because the Court sustains demurrer on substantive grounds, it need not reach Plaintiff's tolling arguments. Plaintiff's arguments are also substantively meritless.

· Code of Civil Procedure section 356 provides, "When the commencement of an action is stayed by injunction or statutory prohibition, the time of the continuance of the injunction or prohibition is not part of the time limited for the commencement of the action." Plaintiff fails to allege any injunction or statutory prohibition. Plaintiff fails to establish that collateral estoppel arising from the Cayman Court's ruling qualifies as an injunction or statutory prohibition that barred him from suing Defendants for fraud arising from the Asset Transfers.

· Plaintiff fails to allege circumstances that would support equitable tolling. "The Court of Appeal correctly described one scenario under which equitable tolling may apply: if a plaintiff pursues one of several available legal remedies, causing it to miss the statute of limitations for other remedies it later wishes to pursue. Yet such facts are far from the only circumstances under

which the doctrine may apply. To determine whether equitable tolling may extend a statute of limitations, courts must analyze whether a plaintiff has established the doctrine's three elements: timely notice to the defendant, lack of prejudice to the defendant, and reasonable and good faith conduct by the plaintiff." (*Saint Francis Memorial Hospital v. State Dept. of Public Health* (2020) 9 Cal.5th 710, 725–726; *Metabyte, Inc. v. Technicolor S.A*. (2023) 94 Cal.App.5th 265, 278 [if requirements of equitable tolling "could be satisfied only by pursuing a legal remedy to lessen damages in a different forum, then a legal remedy to lessen damages would de facto be a requirement of equitable tolling. It is not."]) Thus, pursuit of one of several available legal remedies is not a required element of equitable tolling; it is only "one scenario under which equitable tolling may apply." (*Id*.) Plaintiff fails to allege that he pursued another of several legal remedies against Defendants. Plaintiff also fails to allege timely notice to Sheppard Mullin of the claims alleged here, or circumstances indicating a lack of prejudice.

· Equitable estoppel does not apply. "In the statute of limitations context, equitable estoppel may be appropriate where the defendant's act or omission actually and reasonably induced the plaintiff to refrain from filing a timely suit. The requisite act or omission must involve a misrepresentation or nondisclosure of a material fact bearing on the necessity of bringing a timely suit." (*DOE v. Marten* (2020) 49 Cal.App.5th 1022, 1028-1029.) "[E]ven a defendant who is ignorant or mistaken as to the real facts may be equitably estopped if the defendant was in such a position that he or she ought to have known the true facts. This means that an estoppel may be created where the defendant harbored no intent to mislead and did not engage in actual fraud or bad faith. Rather, it is enough that the defendant's conduct 'induced' the plaintiff to delay commencement of an action." (*Id*.) Plaintiff does not allege any act by Sheppard Mullin that induced delay in filing the Federal Action.

· COVID-19 tolling from April 6, 2020 to October 1, 2020 would not make Plaintiff's claims timely. The tolling would only have extended the deadline to file the fraudulent transfer claims to March 16, 2024. The statute of limitations began to run on the fraud claim on, at the latest, February 21, 2019, and any action had to be brought by February 21, 2022. Appling the tolling under Emergency Rule 9(a), the deadline for Plaintiff to file his fraud claim was August 18, 2022.

Conclusion

Sheppard Mullin's demurrer to first, second, fourth and sixth causes of action alleged against it in the FAC is sustained without leave to amend. Sheppard Mullin is to file a proposed order of dismissal.

25SMCV01474 September 14, 2026
TONY BOBULINSKI vs HUGH DICKSON, et al. 2:00 PM

Judge: Honorable David W. Swift
Judicial Assistant: K. House
Courtroom Assistant: None

CSR: None
ERM: None
Deputy Sheriff: None

Judicial Assistant to give notice.

Certificate of Service is attached.