

XI. APPENDIX

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AUG 27 2025

Court of Appeal, First Appellate District - No. A173458 Jorge Navarrete Clerk

S292059

Deputy

IN THE SUPREME COURT OF CALIFORNIA

En Banc

ADEDAYO ABIOYE, Plaintiff and Appellant,

v.

RAYMOND OCTAVUS LEE, Defendant and Respondent.

The petition for review is denied.

GUERRERO

Chief Justice

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

ADEDAYO ABIOYE,

Plaintiff and Appellant,

v.

RAYMOND OCTAVUS LEE,

Defendant and Respondent.

A173458

(Alameda County
Super. Ct. No. 23CV037590)

The petition for rehearing, filed June 23, 2025, is denied.

Dated: July 18, 2025

Humes, A.P.J. A.P.J.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

Rene C. Davidson Courthouse

Adedayo Abioye
Plaintiff/Petitioner(s)
VS.
Raymond Octavus Lee
Defendant/Respondent
(s)

No. 23CV037590

Date: 05/14/2025

Time: 10:18 AM

Dept: 16

Judge: Victoria Kolakowski

ORDER re: Ruling on Submitted

Matter filed by Adedayo

Abioye (Plaintiff) on

01/17/2025

The Court, having taken the matter under submission on 05/06/2025, now rules as follows:

The Motion to Set Aside/Vacate Judgment filed by Adedayo Abioye on 01/17/2025 is Denied.

I. Background

Adedayo Abioye moved to set aside the order of dismissal and judgment, issued April 15, 2024, and May 15, 2024, respectively. (Mot., Jan. 17, 2025.) Abioye requested relief under section 473(d) of the Code of Civil Procedure, arguing that the order and judgment are products of fraud, contain incorrect and false statements of fact, and that the Court lacked subject matter jurisdiction.

Raymod Lee opposed. (Opp'n Mem., Mar. 19, 2025.) Lee argued that Abioye identified no basis for relief under section 473(d), and that his motion is in fact an untimely motion for reconsideration.

II. Discussion

The Court is unpersuaded that either the order of dismissal or judgment is void. Abioye did not articulate what the alleged fraud is, what the false or incorrect material facts were, or why the Court lacked subject matter jurisdiction. Reviewing the order of dismissal, the Court found that Abioye's claims for slander were time-barred as he filed his complaint after the statute of limitations had expired and that Abioye's claims were not equitably tolled. (*See* Order § III, Apr. 15, 2024.) The Court then dismissed the complaint with prejudice. (*Id.* § IV.) The Court then entered its judgment dismissing the complaint with prejudice. (*See* Judgment, May 15, 2024.) Nothing in these orders suggests they are void.

Rather, Abioye takes issue with the Court's finding that Abioye's claims were not equitably

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Rene C. Davidson Courthouse

toll. (See Mot. 3:3–22, 8:19–23.) If so, Abioye’s motion could be construed as a motion for reconsideration under section 1008 of the Code of Civil Procedure. If construed as such, two issues become clear. First, the motion is untimely as it was filed more than 10 days after the order of dismissal was issued—and more problematically, after the Court entered its judgment. Second, even if it were timely and the judgment had not been entered, Abioye presented no new or different facts, circumstances, or law that would warrant reconsideration.

III. Orders

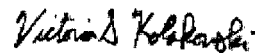
The motion is DENIED

The Court denies the requests for judicial notice as moot.

The Court overrules the objections as moot.

Clerk is directed to serve copies of this order, with proof of service, to counsel and to self-represented parties of record.

Dated : 05/14/2025



Victoria Kolakowski / Judge

SUPERIOR COURT OF CALIFORNIA COUNTY OF ALAMEDA		Reserved for Clerk's File Stamp
COURTHOUSE ADDRESS: Hayward Hall of Justice 24405 Amador Street, Hayward, CA 94544		FILED Superior Court of California County of Alameda 05/14/2025 Chad Finke, Executive Officer / Clerk of the Court By: <u><i>G. Cooper</i></u> Deputy G. Cooper
PLAINTIFF/PETITIONER: Adedayo Abioye		
DEFENDANT/RESPONDENT: Raymond Octavus Lee		
CERTIFICATE OF ELECTRONIC SERVICE CODE OF CIVIL PROCEDURE 1010.6		CASE NUMBER: 23CV037590

I, the below named Executive Officer/Clerk of Court of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that on this date I served one copy of the Order re: Ruling on Submitted Matter filed by Adedayo Abioye (Plaintiff... entered herein upon each party or counsel of record in the above entitled action, by electronically serving the document(s) from my place of business, in accordance with standard court practices.

Adedayo Abioye
dabioye90@gmail.com

Dated: 05/14/2025

Chad Finke, Executive Officer / Clerk of the Court

By:

G. Cooper

G. Cooper, Deputy Clerk

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

Hayward Hall of Justice

Adedayo Abioye
Plaintiff/Petitioner(s)
VS.
Raymond Octavus Lee
Defendant/Respondent
(s)

No. 23CV037590
Date: 04/15/2024
Time: 4:40 PM
Dept: 518
Judge: Victoria Kolakowski

ORDER re: Ruling on Submitted
Matter filed by Adedayo
Abioye (Plaintiff) on
03/27/2024

The Court, having taken the matter under submission on 04/11/2024, now rules as follows:

The Demurrer filed by Raymond Octavus Lee on 02/13/2024 is Sustained without Leave to Amend.

I. Background

A. Abioye's Complaint in this Action

Adedayo Abioye filed a complaint against Raymond Octavus Lee for slander. (Compl., July 3, 2023.) Abioye alleged the following in support: In April 2015, Lee promised to gift \$180,000.00 to Abioye for the purchase of Abioye's first property. (*Id.* ¶¶ 12, 13.) Later that year, Abioye and Moses Remi Abioye agreed to manage Abioye's properties. (*Id.* ¶¶ 14, 17.) In December 2015—days before Abioye purchased a second property—Moses Abioye and Lee entered into a joint-venture agreement without Abioye's knowledge or consent. (*Id.* ¶¶ 15, 16.)

Over four years later, Lee visited Moses Abioye and requested his signature on a loan agreement addendum, characterizing the \$180,000.00 gift as a loan to Moses Abioye and claiming that Lee owed Moses Abioye \$19,515.26 because of the joint venture. (*Id.* ¶¶ 18–21.) Moses Abioye made a large *X* on the document and did not agree. (*Id.*)

The following year, in January 2020, Lee contacted Abioye to inform him he was in possession of a loan agreement signed by Moses Abioye in 2015 concerning the \$180,000.00 gift. (*Id.* ¶ 22.) Lee communicated that the properties had produced \$39,030.52 in profits, and that the \$180,000.00 was a gift only if the properties resulted in a profit of at least \$360,000.00. (*Id.* ¶ 23.) At Abioye's request, Lee indicated he would produce the agreement during mediation if litigation was necessary. (*Id.* ¶ 24.)

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Hayward Hall of Justice

On February 19, 2020, the parties and “witnesses” attended a conference call to discuss the dispute. (*Id.* ¶ 25.) After Abioye disputed the veracity of the alleged 2015 loan agreement during the call, Lee responded, “that shows your character,” adding he was a “fraud” and “fraudulent borrower,” and that Abioye had “defrauded” Lee by “denying being a party to the default loan agreement.” (*Id.*) Later that year, on November 27, 2020, Lee again communicated “false statements” about Abioye to third parties. (*Id.* ¶ 32.)

B. Abioye v. Abioye, No. RG20078149

Before initiating this case, the parties were involved in a separate suit concerning this dispute. In that case, Abioye filed a cross-complaint against Lee asserting a cause of action for slander, among others. (Am. Cross-Compl. ¶¶ 129–31, *Abioye v. Abioye*, No. RG20078149 (Super. Ct. Alameda County Jan. 12, 2022) (cause of action for abuse of process).) Abioye dismissed the cause of action without prejudice, but later sought leave to re-assert the causes of action against Lee. (*See Dismissal re Slander, Abioye* (May. 25, 2022).) The Court granted Abioye’s request (*see Order re Abioye’s Mot. Leave Am. Compl., Abioye* (June 8, 2023) (Brand, J.)), but did not file an amended complaint (*see Docket, Abioye*).

C. Lee’s Demurrer in this Action

Lee demurred to the complaint. (Dem., Feb. 13, 2024.) Lee argued that Abioye’s cause of action for slander is barred by the one-year statute of limitations. (*Id.* 2:23–24.)

Abioye opposed. (Opp’n Mem., Mar. 27, 2024.) Abioye argued that the statute of limitations was tolled pending the outcome of *Abioye* under the principles of equitable tolling.

II. Legal Standard

A party may demur to a complaint if it “does not state facts sufficient to constitute a cause of action.” (Code Civ. Proc. § 430.10(e).) The court will consider all material facts properly pleaded in the complaint and any matters that may be judicially noticed (§ 430.30(a)), “but not contentions, deductions, or conclusions of fact or law” (*Moore v. Conliffe* (1994) 7 Cal. 4th 634, 638 (quoting *Serrano v. Priest* (1971) 5 Cal. 3d 584, 591)).

III. Discussion

The statute for limitations for an action for slander is one year. (Code Civ. Proc. § 340(c).)

Abioye’s claims for slander are time-barred. The statute of limitations expired on August 19, 2021, for the alleged slander that occurred on February 19, 2020; and on May 27, 2022, for the alleged slander that occurred on November 27, 2020. Abioye filed his complaint on July 7, 2023. Thus, the Court considers whether Abioye’s claims were equitably tolled.

“The equitable tolling of statutes of limitations is a judicially created, nonstatutory doctrine.” (*McDonald v. Antelope Valley Comm. College Dist.* (2008) 45 Cal. 4th 88, 99.) “It is ‘designed to prevent unjust and technical forfeitures of the right to a trial on the merits when the purpose of

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the statute of limitations—timely notice to the defendant of the plaintiff’s claims—has been satisfied.” (*Id.* (quoting *Appalachian Ins. Co. v. McDonnell Douglas Corp.* (1989) 214 Cal. App. 3d 1, 38).) “Where applicable, the doctrine will ‘suspend or extend a statute of limitations as necessary to ensure fundamental practicality and fairness.’” (*Id.* (quoting *Lantzy v. Centex Homes* (2003) 31 Cal. 4th 363, 370).) “Broadly speaking, the doctrine applies ‘[w]hen an injured person has several legal remedies and, reasonably and in good faith, pursues one.’” (*Id.* at 100 (quoting *Elkins v. Derby* (1974) 12 Cal. 3d 410, 414).)

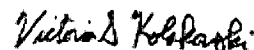
The Court is unpersuaded that equity compels a different result. As noted above, Abioye pursued a cause of action for slander against Lee in *Abioye*, dismissed the claim without prejudice, was granted leave to re-allege the claim against Lee, and chose not to do so. There was no unjust or technical forfeiture of Abioye’s cause of action for slander.

IV. Order

The demurrer is SUSTAINED without leave to amend.

The complaint is dismissed with prejudice.

Dated : 04/15/2024



Victoria Kolakowski / Judge

<p align="center">SUPERIOR COURT OF CALIFORNIA COUNTY OF ALAMEDA</p>		<p align="center">Reserved for Clerk's File Stamp</p>
<p>COURTHOUSE ADDRESS: Hayward Hall of Justice 24405 Amador Street, Hayward, CA 94544</p>		<p align="center">FILED Superior Court of California County of Alameda 04/15/2024 Chad Finke, Executive Officer / Clerk of the Court By: <u>M. Gonzales</u> Deputy M. Gonzales</p>
<p>PLAINTIFF/PETITIONER: Adedayo Abioye</p>		
<p>DEFENDANT/RESPONDENT: Raymond Octavus Lee</p>		
<p align="center">CERTIFICATE OF MAILING</p>		<p>CASE NUMBER: 23CV037590</p>

I, the below-named Executive Officer/Clerk of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that on this date I served the attached document upon each party or counsel named below by placing the document for collection and mailing so as to cause it to be deposited in the United States mail at the courthouse in Hayward, California, one copy of the original filed/entered herein in a separate sealed envelope to each address as shown below with the postage thereon fully prepaid, in accordance with standard court practices.

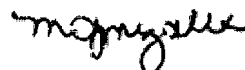
Adedayo Abioye
2147 Lighthouse circle
Tracy, CA 94619

Raymond Octavus Lee
1744 North 1820 West
Provo, UT 84604

Dated: 04/15/2024

Chad Finke, Executive Officer / Clerk of the Court

By:



M. Gonzales, Deputy Clerk

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

Rene C. Davidson Courthouse

Moses Remi Abioye
Plaintiff/Petitioner(s)

VS.

Adedayo Abioye
Defendant/Respondent(s)

No. RG20078149

Date: 03/25/2022

Time: 10:46 AM

Dept: 22

Judge: Jeffrey Brand

ORDER re: Ruling on Submitted Matter

The Court, having taken the matter under submission on 03/22/2022, now rules as follows:
ORDER AFTER HEARING

Cross Defendant Raymond Octavus Lee's Motion for Judgment on the Pleadings is GRANTED WITHOUT LEAVE TO AMEND as to all causes of action except for the Ninth Cause of Action for Slander. The Motion is DENIED as to the Ninth Cause of Action for Slander.

BACKGROUND

1. Procedural History

Cross Defendant Raymond Octavus Lee ("Lee") moves for judgment on the pleading pursuant to Code of Civil Procedure, § 438 as to Defendant and Cross-Complainant Adedayo Abioye's ("Cross-Complainant") First Amended Cross-Complaint ("FACC").

Lee also moves to strike the FACC pursuant to Code of Civil Procedure, § 438, subd. (h)(4)(A) and (i)(1)(A), on the basis that the FACC was filed after the time to file an amended complaint expired.

On 12/21/2021, this Court sustained with leave to amend Lee's motion for judgment on the pleadings as to Cross-Complainant's initial cross complaint, providing that any amended complaint must be filed by 1/7/22. Cross-Complainant filed the FACC on 1/12/22.

2. Factual Background

The factual background is difficult to discern. Plaintiff Moses Remi Abioye ("Plaintiff") and Cross-Complainant appear to be related, and the dispute appears to arise out of the ownership, maintenance, and sale of some real property.

2.a. The 4059 Allendale Ave. Property

Cross-Complainant alleges that on April 30, 2015, Lee gifted Cross-Complainant \$180,000 in order for Cross-Complainant to buy a piece of real property referred to as "4059 Allendale."

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(FACC, ¶ 23.) Cross-Complainant alleges the money was paid via check deposited into an escrow account and the memo line stated “FBO Adedayo Abioye.” (FACC, ¶ 23.) On or about May 1, 2015, Cross-Complainant purchased the property at 4059 Allendale as sole owner. (FACC, ¶ 24.)

On or about November 14, 2015, Cross-Complainant and Plaintiff “came to an agreement” regarding the management of 4059 Allendale, along with another piece of property (842-844 54th Street, Oakland, California), in exchange for free housing and utilities. (FACC, ¶ 25.)

On or about December 10, 2015, Plaintiff and Lee entered into a Loan Agreement. (FACC, ¶ 26; see also Plaintiff’s Complaint, Ex. 2, at p. 4 [“Loan Agreement”].) The Loan Agreement is between Plaintiff (the “Borrower”) and Lee (the “Lender”) for a \$180,000 loan. (Plaintiff’s Complaint, Ex. 2.) The Agreement provides that the loan is to be used as down payment for 4059 Allendale Ave. and that the property will be collateral for the loan. (Ibid.) The Agreement further provides that Plaintiff agrees to repay the loan from profits derived from the sale of other pieces of property and, if the loan is not paid in full by 12/31/2016, the 4059 Allendale property will be sold to pay the outstanding balance. (Ibid.) Cross-Complainant is not a party to the Agreement and alleges that Cross-Complainant first became aware of the Agreement on October 5, 2020. (FACC, ¶ 26.)

2.b. The 733 Henry Street Property

On or about December 20, 2017, Cross-Complainant purchased real property located at 733 Henry Street in Oakland, CA. (FACC, ¶ 27.) The next day, Cross-Complainant and Plaintiff “came to an agreement” where Plaintiff would manage 733 Henry and other properties in exchange for free housing. (FACC, ¶ 28.)

2.c. Loan Agreement Addendum

On October 29, 2019, Cross-Complainant alleges that Plaintiff invited Lee, who was visiting from out of state, to 733 Henry. (FACC, ¶ 29.) During that visit, Lee requested that Plaintiff sign a Loan Agreement Addendum. (See Plaintiff’s Complaint, Ex. 2, at p. 5 [“Loan Agreement Addendum”].) The Loan Agreement Addendum purports to supersede the 12/10/15 Loan Agreement. Cross-Complainant is not a party to the Loan Agreement Addendum. Cross-Complainant was made aware of this incident on October 5, 2020. (FACC, ¶ 30.)

Cross-Complainant alleges that Plaintiff asked Lee to leave the property, and that Lee refused to comply. (FACC, ¶ 31.) Cross-Complainant alleges Lee used financial incentives and then “threats” and intimidation to force Plaintiff to sign the Loan Agreement Addendum. (FACC, ¶ 32.)

2.d. Cross-Defendant Lee

Cross-Complainant alleges that on or about January 3, 2020, Lee contacted Cross-Complainant. (FACC, ¶ 33.) Lee stated he was in possession of a 2015 loan agreement “that was for the funds of \$180,000 to purchase 4059 Allendale.” (Ibid.)

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Lee allegedly represented that the \$180,000 was a conditional gift dependent upon the joint venture between Plaintiff and Lee resulting in at least \$360,000 in profit. (FACC, ¶ 34.) The joint venture resulted in \$39,030.52 profit (of which \$19,515.26 was Plaintiff's share). (Ibid.) Thus, Lee sent Cross-Complainant a deed of trust to be signed and recorded. (Ibid.)

On this call, Cross-Complainant requested a copy of the Loan Agreement. (FACC, ¶ 35.)

On or about February 19, 2020, Cross-Complainant and others initiated a conference call with Lee, who allegedly represented that Cross-Complainant was a party to the 2015 Loan Agreement. (FACC, ¶ 36.) Plaintiff stated the loan was to him. (FACC, ¶ 37.)

On March 26, 2020, Cross-Complainant alleges Plaintiff and Lee spoke over the phone and Plaintiff "disclosed private facts" and "informed Raymond Lee of Cross-Complainant's pending refmanances [sic]." (FACC, ¶ 38.) Lee sent Cross-Complainant a picture of a scripture verse with life and relationship advice." (FACC, ¶ 39.)

On May 7, 2020, Lee contacted Cross-Complainant and informed Cross-Complainant that Plaintiff's share of the joint venture profits (\$19,515.26), which was being held by Lee, was not accruing interest. (FACC, ¶ 40.) Further, Lee promised to pay Cross-Complainant the \$19,515.26 if Cross-Complainant "ratified a rental agreement with [Plaintiff] to lease a unit at 4059 Allendale." (FACC, ¶ 40.) The same day, Cross-Complainant and Plaintiff "ratified a rental agreement." (FACC, ¶ 41.) Lee verbally agreed to guarantee rental payments required by Plaintiff and Cross-Complainant "agreed to make [Lee] a managing member of company and reviewed the operating agreement via phone call." (FACC, ¶ 41.) Lee agreed to the operating agreement, which seemingly included an indemnity agreement, and "indicated his awareness of his management role." (Ibid.)

On May 8, 2020, Cross-Complainant hired Lee and/or Visuals, Inc. as a manager of Pinnacle 24 Investments LLC. (FACC, ¶ 42.)

On or about June 20, 2020, Cross-Complainant and 5 others called Lee, who allegedly stated that Cross-Complainant was a party to the 2015 Loan Agreement. (FACC, ¶ 59.) On this call, Lee allegedly defamed Cross-Complainant by stating Cross-Complainant was "a fraudulent borrower and was in default to a loan for \$180,000." (FACC, ¶ 59.)

2.e. Construction at the Properties

On or about May 15, 2020, Cross-Complainant entered into an agreement with non-party contractors to perform interior work needed on the 733 Henry property. (FACC, ¶ 43.)

On or about May 17, 2020, Plaintiff arrived at the 733 Henry property and shouted at the contractors to cease working and leave the property. (FACC, ¶ 44.) The contractors left "out of intimidation and fear of [Plaintiff]." (FACC, ¶ 45.) Plaintiff stated he wanted to use a different contractor. (Ibid.)

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On May 19, 2020, Cross-Complainant “ratified” a listing agreement with Cross-Defendant Stephanie Burton of Compass Realty for the 733 Henry property. (FACC, ¶ 46.) On May 20, 2020, Cross-Complainant “ratified” a listing agreement for the 4059 Allendale property with Burton. (FACC, ¶ 47.)

On May 31, 2020, Burton contacted Cross-Complainant to inform Cross-Complainant that Plaintiff instructed Burton to remove the “for sale” signs in front of the properties. (FACC, ¶ 49.)

On June 3, 2020, Plaintiff yelled at Burton while she was taking pictures of the 4059 Allendale property. (FACC, ¶ 50.) Burton complied and removed the “for sale” signs. (Ibid.)

On June 3, 2020, Burdon contacted Cross-Complainant regarding construction on the 733 Henry property. (FACC, ¶ 51.) Cross-Complainant apparently signed a contract with Cross-Defendant Demetrius Esclovon dba 2050 Innovation Construction (“Demetrius Esclovon”). (FACC, ¶ 51.) Bruton indicated that Cross-Complainant had “signed the wrong contract.” (Ibid.)

On June 4, 2020, Cross-Complainant and Demetrius Esclovon orally agreed to complete construction at the 733 Henry property. (FACC, ¶ 52.) The same day, Burton presented Cross-Complainant with a formal agreement for construction at the 733 Henry property, which Cross-Complainant signed. (FACC, ¶ 53.) On June 5, 2020, Burton notified Cross-Complainant that “she canceled and voided” the contract for construction at the 733 Henry property. (FACC, ¶ 54, 60 [alleging Burton cancelled the contract on June 29, 2020].)

On June 9, 2020, Cross-Complainant entered into a contract with Gregorio Falcon to complete the work at 733 Henry. (FACC, ¶ 56.) Falcon was paid \$5,000, of which \$2,800 was owed and \$2,200 was for future work. (Ibid.) By June 15, 2020, Falcon had not started the future work and Cross-Complainant requested a refund of the \$2,200, which Falcon agreed to return. (FACC, ¶ 57.) The next day, Falcon informed Cross-Complainant that Plaintiff instructed Falcon to not return the money. (FACC, ¶ 58.)

On or about July 1, 2020, Cross-Complainant hired another contractor to complete the work at 733 Henry. (FACC, ¶ 62.) The parties entered into two contracts for construction of an exterior deck and installation of a water heater, which Cross-Complainant instructed the contractor to purchase. (FACC, ¶ 62.) The next day, Plaintiff instructed the contractor to not purchase the water heater, because it was too expensive. (FACC, ¶ 63.) Cross-Complainant alleges that Falcon breached the contract(s) on July 4, 2020. (FACC, ¶ 66.)

On or about July 3, 2020, Cross-Complainant contacted a lender to secure a loan for \$25,000 in order to complete construction at 733 Henry. (FACC, ¶ 64.) The next day, Plaintiff contacted the lender and made alleged misrepresentations (including that Plaintiff had an ownership in the property), which caused “the conditional loan approval to be revoked.” (FACC, ¶ 65.)

2.f. Sale of the Properties

On July 7, 2020, Cross-Defendant Burton received an offer to purchase the 733 Henry property. (FACC, ¶ 67.) Cross-Complainant instructed Burton “to find a buyer ready to purchase closer to

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the listing price.” (Ibid.)

On July 9, 2020, Burton received another offer for \$730,000, with \$30,000 as an earnest money deposit. (FACC, ¶ 68.) Cross-Complainant alleges that Bruton represented that California state law indicates that only 3% of the earnest money deposition is permitted to be released from escrow to the seller of a property. (FACC, ¶ 69.) Cross-Complainant alleges that “Burton induced Cross-Complainant into purchase agreement [sic] on July 9, 2020.” (FACC, ¶ 69.)

Also on July 9, 2020, Cross-Complainant instructed Burton to instruct Plaintiff to pick up extra building materials and tools at the 733 Henry property. (FACC, ¶ 70.) Cross-Complainant alleges that Burton “failed to honor this agreement which led to Cross-Complainant losing tens of thousands of dollars in excess materials.” (FACC, ¶ 70.)

On December 2, 2020, Cross-Complainant “ratified” a listing agreement with Cross-Defendant Mary Griffith to sell the 4059 Allendale property. (FACC, ¶ 75.) The agreement was brokered by eXp Reality of California, Inc. (Ibid.)

On December 28, 2020, Cross-Defendant Griffith incorrectly stated the details of the property in the listing. (FACC, ¶ 76.) As a result, Cross-Complainant alleges he received no offers on the property and suffered hundreds of thousands of dollars in lost equity as a result of Griffith’s “misrepresentation.” (Ibid.)

On April 2, 2021, escrow closed on the sale of the Allendale property. (FACC, ¶ 79.)

2.g. Slander, Police Reports, and Lien

Cross-Complainant alleges that Plaintiff slandered and defamed him to neighbors, tenants, and law enforcement and attempted to falsely imprison Cross-Complainant on August 7, 2020. (FACC, ¶ 71.) Cross-Complainant alleges the details of the incident are reflected in Oakland Police Report # 20-0807001011.

Also on August 7, 2020, Cross-Complainant alleges Plaintiff intentionally interfered with potential contracts by “misrepresenting facts, slandering Cross-Complainant, threatening and intimidating a customer looking to purchase excess building materials.” (FACC, ¶ 72.) Plaintiff allegedly blocked the driveway at 4059 Allendale, thereby preventing customers from leaving the premises. (Ibid.)

On October 14, 2020, Plaintiff allegedly stole financial documents from Cross-Complainant, as reflected in Oakland Police Report # 20-059590. (FACC, ¶ 74.) Cross-Complainant alleges that Plaintiff filed the stolen documents with the initial complaint against Cross-Complainant and used them to establish a lien on the 4059 Allendale property and extort \$91,740.83 from Cross-Complainant. (FACC, ¶ 74.)

On or about April 1, 2021, Plaintiff sent a payoff demand to Cross-Complainant for \$91,740.83. (FACC, ¶ 78.) Cross-Complainant alleges Plaintiff “fraudulently claimed” that Cross-Complainant was indebted to Plaintiff and forced Cross-Complainant to sign a “document” with

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Rene C. Davidson Courthouse

threats to cause financial injury. (FACC, ¶78.)

On April 2, 2021, escrow closed on the sale of the Allendale property and Plaintiff was paid \$84,240.83, with the outstanding \$7,500 to be paid upon Plaintiff vacating the property. (FACC, ¶ 79.)

On or about April 7, 2021, Plaintiff allegedly “slandered and defamed” Cross-Complainant to neighbors, tenants, and law enforcement and attempted to “falsely imprison” Cross-Complainant, which is documented in Oakland Police Report # 21-015901. (FACC, ¶ 80.)

The same day, Plaintiff allegedly interfered with a potential contract by misrepresenting facts, slandering and defaming Cross-Complainant, threatening and intimidating a customer by blocking the driveway and preventing the customer from leaving. (FACC, ¶ 81.)

Also on the same day, Plaintiff “fraudulently” stated to law enforcement that he owned the Allendale property and that Cross-Complainant was burglarizing the property. (FACC, ¶ 82.)

On or about November 27, 2020, Lee allegedly communicated—orally and in writing—false statements to a third party. (FACC, ¶ 83.) Cross-Complainant alleges the statements were to deter the third party from engaging in business with Cross-Complainant. (Ibid.)

LEGAL FRAMEWORK

A motion for judgment on the pleadings under Code of Civil Procedure section 438, subdivision (c)(1)(B)(ii) “performs the same function as a general demurrer[] and hence attacks only defects disclosed on the face of the pleadings or by matters that can be judicially noticed.” (Burnett v. Chimney Sweep (2004) 123 Cal.App.4th 1057, 1064; see Fire Ins. Exchange v. Superior Court (2004) 116 Cal.App.4th 446, 452; Ponderosa Homes, Inc. v. City of San Ramon (1994) 23 Cal.App.4th 1761, 1767–1768.)

The standard for construing a complaint on demurrer is long-settled: “We treat the demurrer as admitting all material facts properly pleaded, but not contentions, deductions or conclusions of fact or law. [Citation.] We also consider matters which may be judicially noticed. [Citation.] Further, we give the complaint a reasonable interpretation, reading it as a whole and its parts in their context. [Citation.]” (Blank v. Kirwan (1985) 39 Cal.3d 311, 318.)

DISCUSSION

Lee argues that the FACC was filed five days after the deadline and should be stricken. (Code Civ. Proc., § 438, subd. (h)(A)(4) and (i)(1)(A).)

Lee also argues that the court’s grant of leave to file the FACC did not authorize Cross-Complainant to add new parties and causes of action; rather, Cross-Complainant was limited to amending the causes of action challenged by Lee’s prior motion for judgment on the pleadings. (People ex rel. Dept. Pub. Wks. v. Clausen (1967) 248 Cal.App.2d 770, 784.) Therefore, Lee moves to strike the First, Second, Fourth, Seventh, Eighth, Tenth, Eleventh, and Thirteenth

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

Rene C. Davidson Courthouse

causes of action.

In any event, Lee argues that each cause of action fails as a matter of law.

A. Procedural Challenges

The court declines to strike the FACC due to Lee's procedural challenges. The Opposition asserts that Cross-Complainant attempted to timely file the FACC but cites difficulties with the filing procedure as the cause of the delay. Further, Clausen struck the amended complaint as to newly added parties. Lee was a party to the initial cross complaint.

B. Substantive Challenges

1. Contract-Based Claims

Cross-Complainant's first (interference with contract), fourth (implied covenant of good faith), seventh (oral contract), and eleventh (breach of k) causes of action require a contract. Cross-Complainant's eighth cause of action (intentional interference with economic advantage) does not require a contract, but it does require an existing economic relationship. (Westside Center Assocs. v. Safeway Stores 23, Inc. (1996) 42 Cal.App.4th 507, 524.)

As an initial matter, Cross-Complainant alleges that the \$180,000 was a gift. (FACC, ¶ 23.) Similarly, the FACC asserts that Cross-Complainant was not a party to the Loan Agreement or the Loan Agreement Addendum. (FACC, ¶ 26.) Therefore, these do not give rise to a contract claim against Lee.

To the extent the FACC alleges the existence of a contract, it does not allege breach thereof or interference with other contracts. The FACC alleges that on May 7, 2020, Lee verbally agreed to guarantee rent payments required by Plaintiff in exchange for being made a managing member of Pinnacle 24 Investments. (FACC, 41, 42.) This could be sufficient to establish the existence of a contract. However, Plaintiff's conclusory assertions that Lee "communicated false statements" intended to deter a third party from "engaging in business contracts" are insufficient to establish breach or interference. (FACC, ¶ 83.) Cross-Complainant does not allege the subject matter of the false statements or that there was a preexisting economic relationship with the third party.

In Opposition, Cross-Complainant cites paragraphs 25, 28, and 29 of the FACC as allegations supporting the contractual claims. Paragraphs 25 and 28 allege the existence of a contract between Cross-Complainant and Plaintiff, not Lee. Paragraph 29, when read in conjunction with Paragraphs 30 and 31, alleges that Lee and Plaintiff executed the Loan Agreement Addendum, but they do not allege a contract between Cross-Complainant and Lee.

Lee also argues that any alleged contracts would be subject to the Statute of Frauds. (Civil Code, § 1624.) This may be true, but the court need not address it because the FACC does not state a claim in the first instance.

The Motion is GRANTED as to the FACC's first (interference with contract), fourth (implied

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

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covenant of good faith), seventh (oral contract), eighth (intentional interference with economic advantage), and eleventh (breach of k) causes of action.

2. Fraud Based Claims

The third (fraudulent misrepresentation), fifth (fraud-deceit), sixth (fraudulent concealment), and thirteenth (fraud by false promise) causes of action sound in fraud. The basic elements of fraud are a misrepresentation, with knowledge of its falsity and intent to induce reliance, justifiable reliance, and resulting damage. (Small v. Frtiz Companies, Inc. (2003) 30 Cal.4th 167, 173-74.) The misrepresentation may be based on a knowingly false representation (Civ. Code, § 1710(1)), concealment or nondisclosure of facts (Civ. Code, § 1710(3)), or a promise made with no intent to perform (Civ. Code, § 1710(4)). “Fraud allegations must be pled with more detail than other causes of action.” (Apollo Capital Fund, LLC v. Roth Capital Partners, LLC (2007) 158 Cal.App.4th 226, 240.)

The FACC fails to sufficiently allege the fraud-based claims. As to a misrepresentation, the FACC alleges that Lee represented that Cross-Complainant was a fraudulent borrower and in default (FACC, ¶ 59), that the \$180,000 was a conditional gift (FACC, ¶ 34), and that Lee would pay Cross-Complainant a certain sum of money, which represented Plaintiff’s share of joint venture profits with Lee, if Cross-Complainant “ratified” a rental agreement (FACC, ¶ 40.) Assuming these allegations were sufficient to establish a misrepresentation and even knowledge of the falsity, the FACC fails to allege any facts regarding intent, reliance, or resulting damage.

To the extent the claims are based on concealment, the FACC fails to allege a duty to disclose any information or other special relationship with Lee. The FACC similarly fails to allege that Lee suppressed any facts that resulted in damage to Cross-Complainant. (Boschma v. Home Loan Center, Inc. (2011) 198 Cal.App.4th 230, 248.)

The Motion is GRANTED as to the FACC’s third (fraudulent misrepresentation), fifth (fraud-deceit), sixth (fraudulent concealment), and thirteenth (fraud by false promise) causes of action.

3. Breach of Fiduciary Duty (Second Cause of Action)

“The elements of a cause of action for breach of fiduciary duty are the existence of a fiduciary relationship, breach of fiduciary duty, and damages.” (Knutson v. Forster (2018) 25 Cal.App.5th 1075, 1094, quoting Oasis West Realty, LLC v. Goldman (2011) 51 Cal.4th 811, 820.)

It is well-settled that a fiduciary duty under common law may arise “when one person enters into a confidential relationship with another.” (Hasso v. Hapke (2014) 227 Cal.App.4th 107, 140.)

The FACC fails to allege any underlying confidential or fiduciary relationship between Cross-Complainant and Lee that would give rise to a claim for breach of fiduciary duty. The FACC alleges Lee was a fellow member of Cross-Complainant’s former church and has known Cross-Complainant’s family for approximately 25 years. (FACC, ¶ 22.) Beginning in 2012, Cross-Complainant assisted Lee and Plaintiff with accounting, bookkeeping, construction management,

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

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and labor. (Ibid.) This is insufficient to establish a fiduciary relationship with Lee.

The Motion is GRANTED as to the FACC's second cause of action for breach of fiduciary duty.

4. Slander (Ninth Cause of Action)

Defamation is injury to reputation, which may occur by oral communications (slander), or through "publication" of defamatory content (libel). (Shively v. Bozanich (2003) 31 Cal.4th 1230, 1242.) For purposes of the motion, the court will consider both forms of defamation.

"[A]n opinion or legal conclusion is actionable only if it could reasonably be understood as declaring or implying actual facts capable of being proved true or false." (Integrated Healthcare Holdings, Inc. v. Fitzgibbons (2006) 140 Cal.App.4th 515, 527.) The statute of limitations for defamation is one year. (Civ. Proc. Code, § 340, subd. (c).)

The FACC sufficiently alleges defamation to withstand a pleading challenge. The FACC alleges that Lee stated on a telephone call with Cross-Complainant and 5 others that Cross-Complainant was a party to the 2015 Loan Agreement and was "a fraudulent borrower and was in default to a loan for \$180,000." (FACC, ¶ 59.) The FACC alleges Lee is a party to the Loan Agreement, and that Lee was in possession of the Agreement. (FACC, ¶ 26.) Thus, Lee's statement that Cross-Complainant was a "fraudulent borrower" and "in default," although legal conclusions, could give rise to the inference that Lee had verifiable facts underlying those statements.

The second instance of defamation allegedly occurred on June 20, 2020. (FACC, ¶ 59.) The initial cross complaint was filed 2/3/2021 and alleged slander against Lee. Thus, the slander claim is not barred by the statute of limitations.

The Motion is DENIED as to the FACC's ninth cause of action for slander.

5. Intentional Infliction of Emotional Distress (Tenth Cause of Action)

The elements of IIED are "(1) extreme and outrageous conduct by the defendant with the intention of causing, or reckless disregard of the probability of causing, emotional distress; (2) the plaintiff's suffering severe or extreme emotional distress; and (3) actual and proximate causation of the emotional distress by the defendant's outrageous conduct.' A defendant's conduct is 'outrageous' when it is so 'extreme as to exceed all bounds of that usually tolerated in a civilized community.' And the defendant's conduct must be 'intended to inflict injury or engaged in with the realization that injury will result.'" (Hughes v. Pair (2009) 46 Cal.4th 1035, 1050-51.)

The FACC fails to state a claim for IIED. The allegations in the FACC do not rise to the level of outrageous conduct that would support a claim for IIED. Assuming arguendo that the FACC alleges outrageous conduct, there are no allegations of emotional distress or causation.

The Motion is GRANTED as to the FACC's tenth cause of action for IIED.

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6. Conversion (Twelfth Cause of Action)

The basic elements of the tort are (1) the plaintiff's ownership or right to possession of personal property; (2) the defendant's disposition of the property in a manner that is inconsistent with the plaintiff's property rights; and (3) resulting damages." (Fremont Indemnity Co. v. Fremont General Corp. (2007) 148 Cal.App.4th 97, 119.) "The tort of conversion applies to personal property, not real property." (Salma v. Capon (2008) 161 Cal.App.4th 1275, 1295.)

The FACC makes no allegations regarding conversion of personal property against Lee.

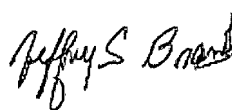
The Motion is GRANTED as to the FACC's twelfth cause of action for conversion.

CASE MANAGEMENT ISSUES DISCUSSED AT ORAL ARGUMENT

At oral argument, the court discussed with counsel for cross-defendant Lee and Plaintiff and Defendant the utility of mediation to resolve this dispute. The parties appeared to agree that it might be a useful exercise. The matter is ORDERED referred to the Court's mediation program. The Court will make the necessary referral.

The Court orders counsel to obtain a copy of this order from the eCourt portal.

Dated: 03/25/2022



Jeffrey Brand / Judge

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

Rene C. Davidson Courthouse

Moses Remi Abioye
Plaintiff/Petitioner(s)

VS.

Adedayo Abioye
Defendant/Respondent(s)

No. RG20078149

Date: 06/08/2023

Time: 3:00 PM

Dept: 22

Judge: Jeffrey Brand

ORDER re: Hearing on Motion for Leave
to Amend Cross-Complaint;
filed by Adedayo Abioye
(Cross-Complainant)

The Motion for Leave to File Amended Cross-Complaint filed by Adedayo Abioye on 04/19/2023 is Granted in Part.

Defendant and Cross-Complainant Adedayo Abioye's Motion for Leave to Amend is GRANTED in part. The Motion is GRANTED insofar as it seeks to assert a claim for Slander against Raymond Octavus Lee. The Motion is otherwise DENIED.

Any amended cross complaint must be filed within 20 days and must be identical in substance to the proposed amended complaint with respect to the slander claim but cannot include any causes of action or parties other than the slander cause of action against Lee. To the extent the amended cross-complaint alleges causes of action or names parties beyond the scope of this order, it will be stricken on the Court's motion.

BACKGROUND

Before this Court is Defendant and Cross-Complainant Adedayo Abioye ("Defendant") motion for leave to file an amended cross complaint. (April 19, 2023 Motion.) This is Defendant's second such motion. (See March 7, 2023 Motion for Leave; 4/11/23 Order Denying Motion.)

As a brief background, Defendant filed the First Amended Cross-Complaint on January 12, 2022. The FACC asserted thirteen causes of action against (1) Moses Remi Abioye; (2) Raymond Octavus Lee; (3) Visuals, Inc.; (4) Marty Griffith; (5) EXP Realty of California, Inc.; (6) Stephanie Burton; (7) Compass California II, Inc.; and (8) Demetrius Esclovon.

On 2/18/22, Lee moved for judgment on the pleadings, which this Court granted without leave to amend. (3/25/22 Order.)

On 4/6/22, Griffith and EXP Realty moved to strike the FACC. Although Defendant filed an opposition, Defendant also voluntarily dismissed EXP Realty; Griffith; Lee; Burton; Esclovon;

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

Rene C. Davidson Courthouse

and Compass (leaving only Moses Remi Abioye and Visuals, Inc.).

On 6/1/22, default was entered against Moses Remi Abioye.

On 8/3/22, Visual, Inc. moved to strike the FACC, which this Court granted. (See 10/18/22 Order; 11/17/22 Judgment.) Prior to Lee's 2/18/22 MJOP, which was granted with prejudice, this Court granted Lee's prior MJOP, with leave to amend the claims against Lee. Visual was not named as a Defendant in the initial cross complaint and the Court did not grant Defendant leave to add new parties in the FACC.

Now, Defendant seeks leave to file an amended cross complaint.

First, Defendant seeks to add Raymond Octavus Lee and Visual, Inc. as Cross-Defendants.

Second, Defendant seeks to add additional causes of action for financial elder abuse and unjust enrichment.

Finally, Defendant also seeks "amend/strike mistakes in the header and all ¶ & lines...from the initial cross-complaint, in order to correct mistakes by replacing them with a new header which would add parties to the case..." and to "subtract mistakes" in various causes of action. (MPA, p. 1.) This is ostensibly with respect to Defendant's claim for slander, but this is not entirely clear to the Court.

LEGAL FRAMEWORK

A trial court may, in the furtherance of justice, and on any terms as may be proper, allow amendments to pleadings. (Code Civ. Proc., §§ 473, subd. (a)(1) and 576; see also *Kittredge Sports Co. v. Superior Court* (1989) 213 Cal.App.3d 1045, 1047.) Courts should be "liberal in allowing the amendment of pleadings at any stage of the proceedings where the amendment does not cause prejudice to the rights of other parties." (*McGuan v. Endovascular Technologies, Inc.* (2010) 182 Cal.App.4th 974, 987.)

Generally, disputes regarding the legal sufficiency of the proposed amendment are best resolved by a pleading challenge or other appropriate proceeding. (*Kittredge Sports Co.*, *supra*, 213 Cal.App.3d at p. 1048.) Thus, leave to amend should be granted unless there is "unwarranted delay" in seeking amendment or "prejudice to the adverse party." (*Rickley v. Goodfriend* (2013) 212 Cal.App.4th 1136, 1159; see also *Morgan v. Superior Court* (1959) 172 Cal.App.2d 527, 530.)

DISCUSSION

Defendant's Motion is—again—DENIED in part for several reasons.

To begin, Defendant concedes that the proposed amendments are based upon "new and old facts." (MPA, p. 2.) The facts identified—that Lee's \$180,000 payment to Moses Abioye was a "conditional gift," not a loan—are not new, because they were alleged in Defendant's 1/12/22

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

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First Amended Cross-Complaint. (1/12/22 FACC, ¶¶ 4, 23, 30, 33, 34, 36, 59, 96.) The same is true of the alleged \$91,000 in damages. (FAC, ¶¶ 74, 78, 79, 137.)

Additionally, the proposed amendments would result in prejudice to the adverse party. As noted above, Visuals, Inc. is no longer a party to this lawsuit. (11/17/22 Judgment of Dismissal.) Moreover, none of the proposed causes of action, as alleged in the proposed cross complaint, state a cause of action against Visuals.

Insofar as Defendant seeks to assert a cause of action for financial elder abuse, it is on behalf of Moses Aboyie, which the Court understands is Defendant's father and the plaintiff in this action. The Court declines to allow such an amendment. (Tepper v. Wilkins (2017) 10 Cal.App.5th 1198.) First, while Defendant argues in the briefing that he is Moses Aboyie's representative and attorney-in-fact, those facts are not alleged in the proposed cross-complaint. (Id., p. 1207.) Second, at the 4/11/23 hearing on Defendant's previous motion for leave to amend to assert such a claim, Moses Aboyie made clear that he did not consent to Defendant pursuing an elder abuse claim on his behalf. (Id., p. 1209.)

At the hearing on this Motion, Defendant represented that he had spoken with his father (Moses Aboyie), who indicated that he (Moses) wanted Defendant to pursue the financial elder abuse claims. The Court inquired with Moses Aboyie, who appeared at the hearing. Moses Aboyie stated that he did not want Defendant to pursue the financial elder abuse claims and further stated that he wanted "everything" to be dismissed. Therefore, the Court declines to allow Defendant to pursue a financial elder abuse claim in bad faith and without the consent of Moses Aboyie.

The third cause of action for unjust enrichment is not a cause of action. (Rutherford Holdings, LLC v. Plaza Del Rey (2014) 223 Cal.App.4th 221, 231 ["Unjust enrichment is not a cause of action..."].) To the extent it could be construed as a cause of action, it appears predicated upon misappropriation of trade secrets but nowhere in the proposed complaint does Defendant allege anything that could be considered a trade secret.

At the hearing, Defendant argued "that the \$180,000 of funds used to purchase the subject property was Defendant's trade secret." It is entirely unclear to the Court how a sum of money could constitute a trade secret. Defendant was unable to state any facts or possible amendment that could support a claim for misappropriation of trade secrets.

Finally, while the slander claim was the only claim to survive Lee's pleading challenges, Defendant voluntarily dismissed Lee. Thus, any claim for slander against Lee was similarly dismissed. Therefore, the Court will grant leave for Defendant to re-file the slander claim against Lee only.

Again, Defendant is strongly encouraged to obtain counsel. This Court has repeatedly advised Defendant to do so and provided resources for free and low-cost representation. Continued self-representation runs the risk of prejudicing Defendant's claims and incurring monetary expenses (e.g., costs and fees). (See 7/6/22 Memo of Costs.)

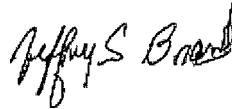
Therefore, Defendant's Motion for Leave to Amend is GRANTED in part and DENIED in part.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA


Rene C. Davidson Courthouse

Clerk is directed to serve copies of this order, with proof of service, to counsel and to self-represented parties of record.

Dated: 06/08/2023

A handwritten signature in black ink, appearing to read "Jeffrey S. Brand". The signature is written in a cursive, flowing style.

Jeffrey Brand / Judge

<p align="center">SUPERIOR COURT OF CALIFORNIA COUNTY OF ALAMEDA</p>		<p align="center">Reserved for Clerk's File Stamp</p>
<p>COURTHOUSE ADDRESS: Rene C. Davidson Courthouse 1225 Fallon Street, Oakland, CA 94612</p>		<p align="center">FILED Superior Court of California County of Alameda 06/08/2023 Chad Finke, Executive Officer / Clerk of the Court By:  Deputy B. Mercado</p>
<p>PLAINTIFF/PETITIONER: Moses Remi Abioye</p>		
<p>DEFENDANT/RESPONDENT: Adedayo Abioye</p>		
<p align="center">CERTIFICATE OF MAILING</p>		<p>CASE NUMBER: RG20078149</p>

I, the below-named Executive Officer/Clerk of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that on this date I served the attached document upon each party or counsel named below by placing the document for collection and mailing so as to cause it to be deposited in the United States mail at the courthouse in Oakland, California, one copy of the original filed/entered herein in a separate sealed envelope to each address as shown below with the postage thereon fully prepaid, in accordance with standard court practices.

Adedayo Abioye
2147 Lighthouse Circle
Tracy, CA 95304

Andrew J. Christensen
Law Offices of Andrew J. Christensen,
P.C.
5032 Woodminster Lane
Suite 550
Oakland, CA 94602-

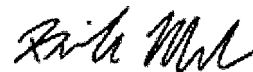
Dennis Justin Kelly
Dillingham & Murphy, LLP
155 Sansome Street
700
San Francisco, CA 94104

Moses Remi Abioye
5700 Fleming Ave
Oakland, CA 94605

Dated: 06/08/2023

Chad Finke, Executive Officer / Clerk of the Court

By:



B. Mercado, Deputy Clerk



OLD REPUBLIC TITLE COMPANY

A MEMBER OF THE OLD REPUBLIC TITLE INSURANCE GROUP

555 12th Street, Suite 2000 • Oakland CA • 94607 • (510) 272-1121 • FAX (510) 208-5045

Adedayo Abioye
3743 Loma Vista Avenue
Oakland, CA 94619

Date: May 5, 2015
Escrow No.: 1117015210-JS
Escrow Officer: Jennifer Senhaji
Closing Date: May 1, 2015

Property: 4059 Allendale Avenue, Oakland, CA 94601

Buyer's Closing Statement

Item	Debits	Credits
Sales Price	725,000.00	
Deposit to Escrow		195,560.00
Deposit by Adebanye Abioye	5,000.00	
Deposit by Moses R. Abioye	10,000.00	
Deposit by Raymond O Lee and Shanna Sullivan FBO Adedayo Abioye	180,000.00	
Deposit by Moses Abioye FBO Adedayo Abioye	560.00	
New 1st loan from The Socotra Fund, LLC		440,000.00
Interest, 05/01/15 to 06/01/15, 31 days @ \$134.32	4,163.99	
Loan Fees	16,350.00	
New 2nd loan from Samuel K. Barlow and Juanita W. Barlow, Trustee of the Barlow Trust		125,000.00
Interest, 05/01/15 to 06/01/15, 31 days @ \$17.12	530.82	
Hazard Insurance to Kelly-Naney Insurance Agency Inc.	3,877.48	
Sewer Lateral Deposit to EBMUD-PSL Remittance Center	4,500.00	
Real Estate Taxes (032-2058-086)	0.00	
Prorata R.E. Taxes, 05/01/15 to 07/01/15, 60 days @ \$12.6103	756.62	
Security Deposits		4,494.00
Escrow Fees	1,180.00	
Additional Charges	300.00	
Loan Tie-In Fee -	150.00	
Doc Prep Trust Deed/Mortgage & Note	150.00	
Notary Fees	10.00	
Title Charges		
CLTA Owner's Policy	1,778.00	
CLTA Loan Policy	100.00	
ALTA Loan Policy	630.00	
Endorsements		
100.0 Restrictions, etc.	0.00	
116 Designation of Improvements, Address	0.00	
Recording Fees	245.00	
Deed	24.00	
Deed of Trust	159.00	
Deed of Trust	62.00	
Other Title Fees	20.00	
Recording Service Fee	20.00	
City Transfer Tax	5,437.50	
Due To Buyer	174.59	
Total	765,054.00	765,054.00

JS/ko
Buyer's Closing Statement

Loan Agreement

This agreement is entered into by Moses Abioye (Borrower) and Raymond Lee (Lender) on December 10, 2015 to establish the terms of a loan.

The amount of the loan is \$180,000. The parties agree that the \$180,000 will be used as the down payment for purchasing 4059 Allendale Ave., Oakland, CA 94601. The property will be collateral for the loan.

The start date is April 30, 2015.

There is no interest charge for the loan if repaid within 6 months. If not repaid within 6 months, Borrower will pay 10% per annum interest, compounded daily, from the start date until paid in full. Borrower will repay loan by cashiers check presented to Lender.

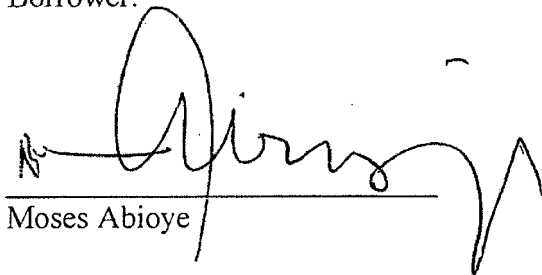
Borrower has pledged his interest in the profit from the renovation and sale of five homes to repay the loan. Any profit from the sale of 475 98th Ave., 1903 Auseon, 2614 67th Ave., 2051 83rd Ave., and 1753 Churh St, will be used to repay the loan. If the loan is not repaid in full by 12/31/2016, 4059 Allendale will be sold to pay the outstanding balance, with principal and interest paid to Lender from escrow. Any costs incurred by Lender to obtain repayment will be added to the loan amount and paid by Borrower. Such costs can include arbitration or attorney's fees, costs to renovate or sell properties, real estate commissions, accounting or bookkeeping fees, and any other costs incurred by Lender.

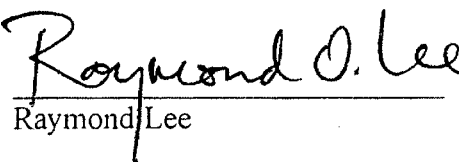
If any dispute arises out of this loan arrangement or loan agreement, the parties waive their right to a trial by judge and jury and submit to binding arbitration according to the rules of the American Arbitration Association. The arbitration will be based in San Francisco and all fees will be paid by Borrower.

If any aspect of this agreement is found to be unenforceable, the remaining terms will remain in full force and effect.

Borrower:

Lender:


Moses Abioye


Raymond Lee

12/10/15
Date

12/10/15
Date

This addendum modifies and supersedes the Loan Agreement dated December 10, 2015 to establish the terms of a loan of \$180,000 from Raymond O. Lee (Lender) and Moses Abioye (Borrower).

It is mutually agreed that as of November 1, 2019 the interest rate on the loan will change from 10% compound interest to 20% simple interest. This rate will apply to the principal and interest and expenses (LPIE) until paid in full. The payoff amount for November 2019 is \$267,506.30.


Beginning Feb. 10, interest rate becomes 22%

Borrower further agrees that he will prioritize the repayment of this loan above other obligations and sell properties as necessary to meet this obligation. If LPIE are not repaid in full by ~~January 10~~ *February 10*, 2020, Borrower will forfeit \$19,515.26 profit due from Lender for joint real estate projects; and Borrower and Lender will engage in mediation, paid for by Borrower, to liquidate real estate and other assets held in the name of Borrower or assigns, including the property located at 4059 Allendale Ave., necessary to pay Lender in full from escrow within 90 days or as soon as possible. The sole subject of mediation will be the repayment of this loan and not any other business dealings. The mediator will have the authority to execute all sales necessary to repay the loan, interest, and all expenses incurred by Lender including time and travel, legal counsel, and mediation. If LPIE are not repaid in full by June 1, 2020, Borrower agrees to pay a \$25,000 penalty in addition to LPIE and the parties submit to binding arbitration, paid by Borrower. The sole subject of arbitration will be the repayment of the debt and not any other business dealings.

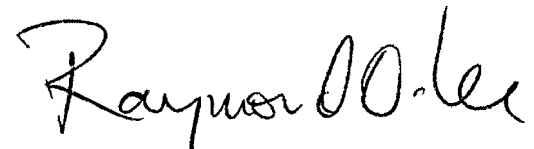
The Loan Agreement and Addendum will be interpreted according to the laws of the State of ~~Utah~~ *California*, and the forum for any legal proceeding will be state court located in ~~Provo, Utah County, Utah~~ *Oakland, Alameda, County*. If it is more expeditious for collection, a judgment may be entered in state court in Oakland, Alameda County, California. Any terms not modified by this addendum will remain as specified in the original loan agreement.

If any aspect of this addendum is found to be unenforceable, the remaining terms will remain in full force and effect.

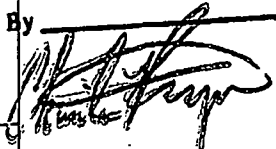
Borrower:


Moses Abioye

Lender:


Raymond O. Lee



ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Moses Remi Abioye		FOR COURT USE ONLY FILED ALAMEDA COUNTY SEP 10 2021 CLERK OF THE SUPERIOR COURT By  Deputy	
TELEPHONE NO.: 510-755-1655 FAX NO. (Optional): E-MAIL ADDRESS (Optional): mabioye@aim.com ATTORNEY FOR (Name):			
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Alameda STREET ADDRESS: 1225 Fallon street MAILING ADDRESS: 1225 Fallon street CITY AND ZIP CODE: Oakland CA 94621 BRANCH NAME: Rene C. Davidson			
PLAINTIFF/PETITIONER: Adedayo Abioye DEFENDANT/RESPONDENT: Moses Remi Abioye			
DECLARATION		CASE NUMBER: RG20078149	

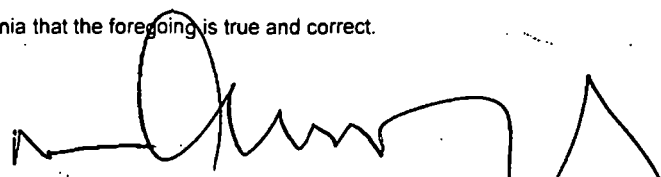
On October 29, 2019, Raymond Octavus Lee came to the property of cross-complainant Adedayo Abioye and obtained the signature of me (cross-defendant, Moses Remi Abioye) on a document he referred to as the Loan Agreement Addendum. The signature was obtained after multiple hours of negotiation attempts and arguing. A fair agreement about what was owed was not reached and Raymond refused to pay interest on what he admitted he owed. The encounter took so long that Raymond's wife Shanna was forced to travel back home by plane without Raymond because he had missed the flight they intended on taking back home, in order to secure the signature on the document. The evidence of the dispute and disagreement of what is owed to me is the large X mark through the 3rd paragraph of the addendum.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 06-2-21

Moses Remi Abioye

(TYPE OR PRINT NAME)


 (SIGNATURE OF DECLARANT)

☐ Attorney for ☐ Plaintiff ☐ Petitioner ☒ Defendant
☒ Respondent ☐ Other (Specify):

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

ADEDAYO ABIOYE,

Plaintiff and Appellant,

v.

RAYMOND OCTAVUS LEE,

Defendant and Respondent.

A173458

(Alameda County
Super. Ct. No. 23CV037590)

Adedayo Abioye was designated a vexatious litigant in August 2024 and is subject to a prefiling order. (Code Civ. Proc., §§ 391, 391.7.)

On May 19, 2025, appellant filed a notice seeking to appeal an order issued by the Alameda County Superior Court on May 14, 2025, denying his motion to set aside/vacate judgment.

Application for permission to appeal is denied. Appellant has failed to demonstrate a reasonable possibility his appeal has merit. (Code Civ. Proc., § 391.7, subd. (b); *Kobayashi v. Superior Court* (2009) 175 Cal.App.4th 536, 541, 544.)

The appeal is dismissed, and the matter is deemed complete in this court. No costs are awarded (Cal. Rules of Court, rule 8.278(a)(5).)

Dated: 06/20/2025

Humes A.P.J.