SUPERIOR COURT OF CALIFORNIA,
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

MINUTE ORDER

DATE: 03/23/2026 TIME: 01:30:00 PM DEPT: C11

JUDICIAL OFFICER PRESIDING: Jonathan Fish
CLERK: C. Townsend
REPORTER/ERM: None
BAILIFF/COURT ATTENDANT: B. Diaz

CASE NO: **30-2025-01483334-CU-OE-CJC** CASE INIT.DATE: 05/16/2025
CASE TITLE: **Parzivand vs. Setschedule, LLC**
CASE CATEGORY: Civil - Unlimited CASE TYPE: Other employment

EVENT ID/DOCUMENT ID: 74763735

EVENT TYPE: Demurrer to Complaint
MOVING PARTY: Udi Dorner, Shayna R. Dekel, Setschedule, LLC, Roy A. Dekel, Yehuda Dorner, Richard Chenel
CAUSAL DOCUMENT/DATE FILED: Demurrer, 07/18/2025

EVENT ID/DOCUMENT ID: 74763736

EVENT TYPE: Case Management Conference
MOVING PARTY: Daniel Parzivand
CAUSAL DOCUMENT/DATE FILED: Complaint, 05/16/2025

EVENT ID/DOCUMENT ID: 74763737

EVENT TYPE: Order to Show Cause re: Sanctions/Dismissal

APPEARANCES

Tentative Ruling posted on the Internet.

There are no appearances by any party.

Pursuant to telephonic notice from counsel, all parties submit on the tentative ruling. The tentative ruling becomes the final ruling of the Court as follows:

The demurrer by Defendants SetSchedule, LLC, Roy A. Dekel, Shayna R. Dekel, Richard Chenel, Udi Dorner, and Yehuda Dorner (collectively, "Defendants") to the ninth, tenth, and thirteenth causes of action alleged in the Complaint filed by Plaintiff Daniel Parzivand ("Plaintiff") is overruled in part and sustained in part with 15 days leave to amend.

Defendants showed they satisfied their CCP section 430.41 and did not reach a resolution. (Neilson Decl., ROA No.53.)

Ninth cause of action for breach of contract
"[T]he elements of a cause of action for breach of contract are (1) the existence of the contract, (2)

plaintiff's performance or excuse for nonperformance, (3) defendant's breach, and (4) the resulting damages to the plaintiff." (*Oasis West Realty, LLC v. Goldman* (2011) 51 Cal.4th 811, 821.)

Plaintiff alleged sufficient facts to state this cause of action. (Complaint, ¶¶ 49-52 and 54-55.)

Defendants contend Plaintiff did not define the term "Defendants") in the complaint and that the loan was only between Plaintiff and SetSchedule, providing a copy of the purported loan agreement. Defendants accurately assert that the complaint does not define the term "Defendants." However, that does not render the pleading uncertain. (*See, Williams v. Beechnut Nutrition Corp.* (1986) 185 Cal.App.3d 135, 139, fn. 2 ["under our liberal pleading rules, where the complaint contains substantive factual allegations sufficiently apprising defendant of the issues it is being asked to meet, a demurrer for uncertainty should be overruled or plaintiff given leave to amend…Although inconvenient, annoying and inconsiderate, the lack of labels for plaintiff's causes of action does not substantially impair [defendant's] ability to understand the complaint" and a demurrer should be overruled.].)

A demurrer for uncertainty is strictly construed, even where a complaint is in some respects uncertain, because ambiguities can be clarified under modern discovery procedures." (*Khoury v. Maly's of California, Inc.* (1993) 14 Cal.App.4th 612, 616.) Errors and confusion created by "the inept pleader" are to be forgiven if the pleading contains sufficient facts entitling plaintiff to relief. (*Saunders v. Cariss* (1990) 224 Cal.App.3d 905, 908.) A demurrer for uncertainty should be overruled if the facts are presumptively within defendant's knowledge. (*Khoury*, 14 Cal.App.4th at 616.) A party attacking a pleading on "uncertainty" grounds must specify how and why the pleading is uncertain, and where that uncertainty can be found in the challenged pleading. (*Fenton v. Groveland Community Services Dept.* (1982) 135 Cal.App.3d 797, 809, disapproved on other grounds in *Katzberg v. Regents of the University of California* (2002) 29 Cal.4th 300.) Here, the ninth, tenth, and thirteenth causes of action is not so unintelligible that Defendants cannot reasonably respond. Any ambiguities can be clarified through discovery. (*Lickiss v. Financial Industry Regulatory Authority* (2012) 208 Cal.App.4th 1125, 1135; *Khoury*, 14 Cal.App.4th at 616.) Accordingly, the demurrer on this ground is overruled.

To the extent Defendants contend the loan agreement was only between SetSchedule and Plaintiff, the Court may only consider the pleadings and matters of which the Court may take judicial notice. A demurrer challenges the defects appearing on the face of the pleading or from other matters properly subject to judicial notice. (*See Blank v. Kirwan* (1985) 39 Cal.3d 311, 318.) The issue is the sufficiency of the pleading, not the truth of the facts alleged. Thus, no matter how unlikely or improbable, the allegations made must be accepted as true for the purpose of ruling on the demurrer. (*See Del E. Webb Corporation v. Structural Materials Co.* (1981) 123 Cal.App.3d 593, 604.) A demurrer "challenges defects *on the face of the complaint,* it can refer to matters outside the pleading only if those matters are subject to judicial notice." (*Tenet Healthsystem Desert, Inc. v. Blue Cross of California* (2016) 245 Cal.App.4th 821, 834; *see,* Code Civ. Proc., § 430.30, subd. (a).)

Although facts appearing in exhibits take precedence when those facts contradict the alleged facts, there is no exhibit attached to the complaint. (*Holland v. Morse Diesel Intern., Inc.* (2001) 86 Cal.App.4th 1443, 1447.) Nor is there any request for judicial notice.

Accordingly, the demurrer to this cause of action is overruled.

<u>Tenth cause of action for fraud</u>
Plaintiff's complaint does not specify the species of fraud alleged. Plaintiff's opposition to the demurrer contends Plaintiff can prove fraud through intentional misrepresentation, concealment, false promise, and negligent misrepresentation. (Opposition, 5:21-22.)

"The elements of fraud, which give rise to the tort action for deceit, are (a) misrepresentation (false representation, concealment, or nondisclosure); (b) knowledge of falsity (or 'scienter'); (c) intent to defraud, i.e., to induce reliance; (d) justifiable reliance; and (e) resulting damage." *Lazar v. Superior*

Court (1996) 12 Cal.4th 631, 638.

The essential elements for intentional misrepresentation are (1) a misrepresentation, (2) knowledge of falsity, (3) intent to induce reliance, (4) actual and justifiable reliance, and (5) resulting damage. (*Chapman v. Skype Inc.* (2013) 220 Cal.App.4th 217, 230-231.)

The elements for a cause of action for deceit by concealment are: (1) the defendant must have concealed or suppressed a material fact, (2) the defendant must have been under a duty to disclose the fact to the plaintiff, (3) the defendant must have intentionally concealed or suppressed the fact with the intent to defraud the plaintiff, (4) the plaintiff must have been unaware of the fact and would not have acted as he did if he had known of the concealed or suppressed fact, and (5) as a result of the concealment or suppression of the fact, the plaintiff must have sustained damage. (*Boschma v. Home Loan Center, Inc.* (2011) 198 Cal.App.4th 230, 248.)

"A duty to speak may arise in four ways: it may be directly imposed by statute or other prescriptive law; it may be voluntarily assumed by contractual undertaking; it may arise as an incident of a relationship between the defendant and the plaintiff; and it may arise as a result of other conduct by the defendant that makes it wrongful for him to remain silent." (*Blickman Turkus, LP v. MF Downtown Sunnyvale, LLC (2008) 162 Cal.App.4th 858, 867.)*

To state a cause of action for negligent misrepresentation, plaintiffs must plead the following elements: " (1) a false statement of a material fact that the defendant honestly believes to be true, but made without reasonable grounds for such belief, (2) made with the intent to induce reliance, (3) reasonable reliance on the statement, and (4) damages." (*Century Sur. Co. v. Crosby Ins., Inc.* (2004) 124 Cal.App.4th 116, 129.)

The elements of promissory fraud or fraud in the inducement are (1) the defendant made a promise to the plaintiff, (2) at the time the promise was made, the defendant did not intend to perform the promise; (3) the defendant intended to cause the plaintiff to rely on the promise; (4) the plaintiff reasonably relied on the promise; and (5) the plaintiff was harmed as a result. (*Lazar v. Sup. Court* (1996) 12 Cal.4th 631, 638-639; *Muraoka v. Budget Rent-A-Car, Inc.* (1984) 160 Cal.App.3d 107, 119.)

Every element of fraud must be pleaded with specificity. The particularity requirement for fraud requires the pleading of facts showing how, when, where, to whom, and by what means the representations were made. (*Stansfield v. Starkey* (1990) 220 Cal. App. 3d 59, 73.) This is to provide the defendant with notice and to give the court enough information to assess whether there is a foundation for the charge of fraud. (*Committee on Children's Television, Inc. v. General Foods Corp.* (1983) 35 Cal. 3d 197, 216.) The requirement of specificity in a fraud action against a corporation requires the plaintiff to allege the names of the persons who made the allegedly fraudulent representations, their authority to speak, to whom they spoke, what they said or wrote, and when it was said or written. (*Tarmann v. State Farm Mut. Auto. Ins. Co.* (1991) 2 Cal.App.4th 153, 157.) Nonetheless, "[l]ess specificity is required when it appears from the nature of the allegations that the defendant must necessarily possess full information concerning the facts of the controversy." (*Committee on Children's Television,* 35 Cal. 3d at 216 [citation and internal quote marks omitted].)

Plaintiff did not allege sufficient facts with the required specificity to state this cause of action. Accordingly, the demurrer is sustained with 15 days leave to amend.

Thirteenth cause of action for money lent

Where one person lends money to another, the law implies an obligation to repay it. An action in the form of a common count for money lent is an appropriate pleading to recover money so advanced. (*Pleasant v. Samuels* (1896) 114 Cal. 34.)

The essential elements for a cause of action for common counts are: (i) defendant became indebted to

plaintiff in a certain sum; (ii) for some consideration (such as money had and received, goods sold or money lent); and (iii) no part of the sum has been paid. (4 Witkin, Calif. Procedure, § 557 (5th Ed. 2008).)

Plaintiff alleged sufficient facts to state this cause of action. (Complaint, ¶¶ 49-52 and 79.) Demurrer is overruled.

The Order to Show Cause re: Sanctions/Dismissal is discharged.

The Case Management Conference is continued to 06/29/2026 at 09:00 AM in this department.

Court orders Clerk to give notice.