SUPERIOR COURT OF CALIFORNIA

COUNTY OF SAN FRANCISCO

DEPARTMENT 304

STATE OF CALIFORNIA *ex. rel.* EDELWEISS FUND, LLC, Plaintiff, v. JPMORGAN CHASE & CO. et al., Defendants.	Case No. CGC-14-540777 ORDER ON THE PARTIES' MOTIONS FOR SUMMARY JUDGMENT OR, IN THE ALTERNATIVE, SUMMARY ADJUDICATION

The parties' motions for summary judgment or for summary adjudication in the alternative came on for hearing on February 19, 2026. Having considered the pleadings and papers on file in the action, and the arguments of counsel presented at the hearing, the Court rules as follows: (1) Defendants' motion for summary judgment is denied; Defendants' motion for summary adjudication in the alternative is granted in part and denied in part; (2) Piper Jaffray's motion for summary judgment is denied; Piper Jaffray's motion for summary adjudication in the alternative is granted in part and denied in part; (3) Relator's motion for summary judgment or, in the alternative, for summary adjudication is denied; and (4) Relator's motion for summary judgment or, in the alternative, for summary adjudication against Defendant Piper Jaffray is denied.

BACKGROUND

On July 28, 2014, Qui Tam Plaintiff Edelweiss Fund, LLC ("Relator") filed under seal its initial complaint in this qui tam action against various financial institutions. On March 9, 2021, following multiple rounds of pleading motions, Relator filed the Seventh Amended Complaint ("7AC"), which alleges a single cause of action for violation of the California False Claims Act ("CFCA"), Gov. Code § 12650 *et seq.* After the Court (Massullo, J.) sustained Defendants' demurrer to the 7AC without leave to amend, the Court of Appeal reversed. (*State ex rel. Edelweiss Fund, LLC v. JPMorgan Chase & Co.* (2023) 90 Cal.App.5th 1119.) The Court of Appeal summarized Relator's general factual allegations as follows:

> In its operative seventh amended complaint, Edelweiss alleges that defendants contracted to serve as remarketing agents (RMAs) to manage California variable rate demand obligations (VRDOs): tax-exempt municipal bonds with interest rates reset by RMAs on a periodic basis, typically weekly. It alleges that defendants violated the CFCA by submitting false claims for payment for these remarketing services, knowing they had failed their obligation to reset the interest rate for the California VRDOs at the lowest possible rate that would enable them to sell the series at par (face value). Instead, defendants "engaged in a coordinated 'Robo-Resetting' scheme where they mechanically set the rates *en masse* without any consideration of the individual characteristics of the bonds or the associated market conditions or investor demand" and "impose[d] artificially high interest rates on California VRDOs, the exact opposite of what California hires them to accomplish." Edelweiss also alleges that defendants had conspired to violate the CFCA by colluding to inflate interest rates on these VRDOs.

(*Id.* at 1125.)

On August 21, 2024, the Court granted in part and denied in part Defendants' motion for summary adjudication on statute of limitations grounds. On July 1, 2025, the Court granted Defendants' motion for summary adjudication of Relator's claims regarding liquidity fees. On November 3, 2025, the Court ruled on Defendants' motions to exclude expert opinions and testimony. In particular, the Court granted in part and denied in part Defendants' motions to exclude the expert opinions and testimony of Bradley Wendt and S. Ilan Guedj. (Nov. 3, 2025 Order, 49.) Additionally, the Court denied Defendants' motion to exclude the expert opinions and testimony of Einer R. Elhauge. (*Id.*)

Relator and Defendants now cross-move for summary judgment or, in the alternative, summary adjudication. (Relator's Motion, 1; Defendants' Motion, 1.)[1] Relator separately moves for summary

[1] Defendants have filed voluminous evidentiary objections. The Court finds it unnecessary to rule on the vast majority of those objections, as they concern evidence that is not material to its disposition of the

judgment or summary adjudication against Defendants Piper Jaffray & Co. and Piper Jaffray Financial Products Inc. (together, "Piper Jaffray" or "PJ").

SEALING

Each of the parties' motions along with voluminous supporting documents and evidence have been filed conditionally under seal. No party filed a corresponding motion to seal. (See Cal. Rules of Court, rules 2.551(b)(1) ["A party requesting that a record be filed under seal must file a motion or an application for an order sealing the record."], 2.551(b)(3)(A)(iii) ["A party that files or intends to file with the court, for the purposes of adjudication or to use at trial, records produced in discovery that are subject to a confidentiality agreement or protective order, and does not intend to request to have the records sealed, must: Give written notice to the party that produced the records that the records and other documents lodged [] will be placed in the public court file unless that party files a timely motion or application to seal the records under the rule."].) Therefore, the Court directs the Clerk to transfer the documents filed conditionally under seal to the public file. (See Cal. Rules of Court, rule 2.551(a) ["A record must not be filed under seal without a court order."].)

LEGAL STANDARD

"A party may move for summary judgment in an action or proceeding if it is contended that the action has no merit or that there is no defense to the action or proceeding." (Code Civ. Proc. § 437c(a)(1).) "The motion for summary judgment shall be granted if all the papers submitted show that there is no triable issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." (*Id.* § 437c(c).) "There is a triable issue of material fact if, and only if, the evidence would allow a reasonable trier of fact to find the underlying fact in favor of the party opposing the motion in accordance with the applicable standard of proof." (*Aguilar v. Atlantic Richfield Co.* (2001) 25 Cal.4th 826, 850.) "A defendant bears the burden of persuasion that 'one or more elements of' the 'cause of action' in question 'cannot be established,' or that 'there is a complete defense' thereto." (*Id.* (cleaned up); Code Civ. Proc. § 437c(p).) In order to meet its initial burden of production, a moving party must

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motions. (Code Civ. Proc. § 437c(q).)

present evidence sufficient to negate an element, for example, by presenting factually devoid discovery responses. (See, e.g., *Collin v. CalPortland Co.* (2014) 228 Cal.App.4th 582, 587 ["the defendant may show through factually devoid discovery responses that the plaintiff does not possess and cannot reasonably obtain needed evidence."].) Thus, a moving party's unsupported contention that its opponent cannot prove its claims is insufficient. (*Krantz v. BT Visual Images, L.L.C.* (2001) 89 Cal.App.4th 164, 173 ["the moving party's 'simply pointing to' the absence of evidence supporting plaintiff's position is not in itself enough to obtain summary judgment in its favor"].)

"A party may move for summary adjudication as to one or more causes of action within an action, . . . if the party contends that the cause of action has no merit." (Code Civ. Proc. § 437c(f)(1).) "A motion for summary adjudication shall be granted only if it completely disposes of a cause of action, an affirmative defense, a claim for damages, or an issue of duty." (*Id.*) "A motion for summary adjudication may be made . . . as an alternative to a motion for summary judgment and shall proceed in all procedural respects as a motion for summary judgment." (*Id.* § 437c(f)(2).)

While a summary adjudication motion must completely dispose of a cause of action (Code Civ. Proc. § 437c(f)(1)), the manner in which a "cause of action" is pled in the complaint is not dispositive. (*Lilienthal & Fowler v. Superior Court* (1993) 12 Cal.App.4th 1848, 1854 [summary adjudication proper as to "two separate and distinct causes of action regardless of how pled in the complaint"].) Rather, "[a] recognized exception to the statutory language above holds that where two or more separate and distinct wrongful acts are combined in the same cause of action in a complaint, a party may present a summary adjudication motion that pertains to some, but not all, of the separate and distinct wrongful acts." (*Blue Mountain Enterprises, LLC v. Owen* (2022) 74 Cal.App.5th 537, 549 [trial court properly resolved claim for breach of contract by summary adjudication where complaint alleged separate and distinct violations of different provisions of employment agreement]; accord, *CDF Firefighters v. Maldonado* (2011) 200 Cal.App.4th 158, 165 [despite being pled as one cause of action in the complaint, plaintiff stated two causes of action]; *Lilienthal & Fowler*, 12 Cal.App.4th at 1854-1855 ["a party may present a motion for summary adjudication challenging separate and distinct wrongful act even though combined with other wrongful acts alleged in the same cause of action."].) The statue thus authorizes motions for summary

adjudication that "reduce the costs and length" of litigation by limiting the substantive areas of dispute. (*Lilienthal & Fowler*, 12 Cal.App.4th at 1852.)

DISCUSSION

I. Defendants' Motion For Summary Judgment Is Denied. Defendants' Motion For Summary Adjudication In The Alternative Is Granted In Part And Denied In Part.

Defendants move for summary judgment on the grounds that there are no triable issues of material fact and Relator cannot prove each and every element of its CFCA claims. (Motion, 1; see Reply, 1; see, e.g., Opening Brief, 2.) In the alternative, Defendants seek summary adjudication of the following: "(1) rate-reset notifications on the ground that they do not violate the [CFCA]; (2) conduit VRDOs on the ground that any alleged conduit 'claim' is not actionable under the [CFCA]; (3) Relator's conspiracy cause of action on the ground that Defendants did not conspire to violate the [CFCA]; (4) all pre-March 25, 2013 claims involving the additional local issuers and affiliated agencies that had inquiry notice of Relator's suit on the ground that such conduct is barred by the statute of limitations, as held in the Court's August 21, 2024 MSA Order; and (5) all post-2020 claims on the ground that Relator has not produced any admissible evidence demonstrating that Defendants violated the [CFCA] during this time period." (Motion, 1; see Reply, 1.) Relator opposes the motions. The Court addresses each ground in turn.

The CFCA "imposes liability for civil penalties and treble damages on any person who (1) knowingly presents or causes to be presented a false or fraudulent claim for payment or approval; (2) knowingly makes, uses, or causes to be made or used a false record or statement material to a false or fraudulent claim; or (3) conspires to commit a CFCA violation." (*State ex rel. Edelweiss Fund, LLC*, 90 Cal.App.5th at 1127, citing Gov. Code § 12651.)[2] "Given the 'very close similarity' of the CFCA to the federal False Claims Act ['FCA'], 'it is appropriate to turn to federal cases for guidance in interpreting the'" CFCA. (*State ex rel. Edelweiss Fund, LLC*, 90 Cal.App.5th at 1135 fn. 10, quoting *City of Pomona v. Superior Court* (2001) 89 Cal.App.4th 793, 802; see *State ex rel. Bartlett v. Miller* (2016) 243 Cal.App.4th 1398, 1411 [the "CFCA is patterned after the federal False Claims Act as amended in 1986,

[2] Relator argues that "Defendants do not directly address materiality in their brief and have therefore essentially conceded that Relator has evidence sufficient to go to the jury as to that CFCA element." (Opposition, 50.) This is not a concession. Defendants are not required to move on every element of a claim to prevail on summary judgment or adjudication. (Code Civ. Proc. §§ 437c(f)(2), 437c(p).)

and federal authorities interpreting the federal act are often looked to for guidance to the extent the language of the two acts is similar." (cleaned up)].)

A. Defendants Are Entitled To Summary Adjudication As To Relator's Claims Regarding Rate-Resetting Notifications.

Defendants argue that Relator's CFCA claims "involving Defendants' rate-reset notifications [fail] for two independent reasons: (a) these alleged 'claims' do not even meet the CFCA's threshold requirement of a 'demand for payment' and are thus not actionable, and (b) they are truthful." (Opening Brief, 17; see *id.* at 2, 18-19; Reply, 2-6.) Relator disagrees, arguing that rate-resetting "notices and invoices prompted payment of interest to bondholders." (Opposition, 32.) In particular, Relator asserts that "because the trustees' invoices to issuers demanded interest payments at rates that were set contrary to the requirements of the remarketing agreements and bond indentures, those invoices were indisputably false claims. And because Defendants caused those claims to be false by creating false records that informed those interest rate invoices (*e.g.*, rate reset notifications), then Defendants are liable for those false claims regardless of whether the trustees realized their interest rate invoices were false." (*Id.* at 32-33; see also *id.* at 35 ["VRDO trustees rely on rate reset notifications to calculate the amount payable to bondholders, an amount for which issuers are ultimately responsible. Rate reset notifications thus have the practical purpose and effect of inducing payment." (cleaned up)], 36.) For the following reasons, the Court concludes that Defendants are entitled to summary adjudication that rate-resetting notifications do not constitute "claims" and are not "false" within the meaning of the CFCA.

1. Rate-Resetting Notifications Do Not Constitute "Claims" Under The CFCA.

A "claim" under the CFCA is defined as:

> *any request or demand, whether under a contract or otherwise, for money*, property, or services, and whether or not the state or a political subdivision has title to the money, property, or services that meets either of the following conditions:
>
> (A) Is presented to an officer, employee, or agent of the state or of a political subdivision.
>
> (B) Is made to a contractor, grantee, or other recipient, if the money, property, or service is to be spent or used on a state or any political subdivision's behalf or to advance a state or political subdivision's program or interest, and if the state or political subdivision meets either of the following conditions:

(i) Provides or has provided any portion of the money, property, or service requested or demanded.

(ii) Reimburses the contractor, grantee, or other recipient for any portion of the money, property, or service that is requested or demanded.

(Gov. Code § 12650(b)(1) (emphasis added).)

In the 7AC, Relator alleges that "Defendants submitted to California invoices, statements, or bills on a monthly or otherwise regular basis that were requests or demands for money under a contract or other binding agreement." (7AC ¶ 317.) Relator alleges that "Defendants submitted, or caused to be submitted, similar invoices, statements or bills to California associated with the payments California VRDO issuers make for . . . regular interest payments." (*Id.*) It lists a number of "sample claims for payment" that Relator alleges are "typical of the claims Defendants submitted for all the VRDOs at issue," including rate-setting notifications (which Relator refers to as "Rate Notice[s]"). (*Id.*; see *id.* at Ex. Q, Index Nos. 5-6 (BofA), 11-12 (Citigroup), 17 (Morgan Stanley), 22-23 (Wells Fargo).) None of those exemplars is titled "invoice,"[3] and none contains an express demand for payment, a legend such as "payment due upon receipt," a payment deadline, instructions for payment (e.g., wire transfer instructions to a specified account), or, in most cases, even an amount due as a result of Defendants' setting the interest rates specified in the notices. Indeed, many of them are dated and were sent months before the interest payments were due, which further supports the conclusion that they were not demands for payment. In contrast, the remarketing invoices Defendants sent for their remarketing services *are* expressly entitled "Invoice," and they show the "amount due," "current billed amount," "total amount due," and contain payment instructions for federal funds wire or ACH (Automated Clearing House) payments. (E.g., *id.* at Ex. Q, Index No. 18 (Morgan Stanley).)

Defendants assert that "in some but not all cases, Defendants sent notifications to Issuers apprising them of the interest rates that had been set on their VRDOs." (Opening Brief, 11; see also *id.* at 18 ["Rate-reset notifications, as their name indicates, were simply *notifications* of rates that had been set."].) Exemplar rate-resetting notifications submitted by Defendants show the CUSIP, outstanding bond amount, the applicable time period, and a breakdown of each interest rate during the applicable time

[3] Indeed, the Wells Fargo notices, which are entitled "accrual summary," contain the express disclaimer, "WFNBA accrual summaries are not intended to be invoices." (7AC Ex. Q, Index Nos. 22-23.)

period. (See, e.g., Sisk Decl. (BofA) Exs. 1-2 [also included coupon payment date, total interest/issue, and average interest rate]; Leffler Jr. Decl. (Citi) Exs. 17-22; Defs Ex. 89 at Ex. A [also included interest payment date, reset frequency, and payment frequency]; Loughney Decl. (Morgan Stanley) Exs. 11-12 [also included previous interest pay date, next interest pay date, total interest, period accrued, and total accrued]; Laraia Decl. (RBC) Ex. 8; Lee Decl. (WF) Ex. 8 [also included accrual method, "Pay Interest On" date, and payment frequency]; see also Opening Brief, App. B, Figs. 1-6.)[4] Again, however, none of these exemplars is titled "invoice," and none contains any request or demand for payment such as "payment is due upon receipt," a payment deadline, instructions for payment, or, in most cases, even an amount of interest due.

Controlling California authority compels the conclusion that these rate-reset notifications are not "claims" within the meaning of the CFCA. The leading case is *Fassberg Construction Co. v. Housing Authority of City of Los Angeles* (2007) 152 Cal.App.4th 720. There, a general contractor brought an action against a city housing authority for breach of a construction contract, and the authority cross-claimed. The jury found that the contractor had breached the contract and had knowingly submitted nearly 3,000 false claims to the housing authority, and that the authority had suffered over $1 million in damages resulting from the breach of contract and $455,000 in damages resulting from the false claims. The trial court trebled the latter figure and awarded a civil penalty of $500 per false claim under the CFCA. On appeal, the court reversed in part, holding that the evidence failed to establish a sufficient basis for the civil penalty imposed by the trial court. (*Id.* at 735-742.) The court held squarely that "a record or statement that is not a request or demand for money within the meaning of Government Code section 12650, subdivision (b)(1) is not a 'claim.'" (*Id.* at 735-736.)

First, the court held that the trial court had erred in determining that weekly payroll reports submitted to the authority by the contractor constituted "claims" under the Act. (*Id.* at 738-739.) Although the payroll reports "were accompanied by certifications as to their accuracy and compliance with the contract," they "did not include a request for payment." (*Id.* at 738.) In contrast, the requests for progress payments that the contractor submitted approximately every two weeks "stated an estimate of the

[4] "VRDOs are identified by a Committee on Uniform Securities Identification Procedures ('CUSIP') code, which is a 9-character alphanumeric code." (Aug. 21, 2024 Order, 4 fn. 4 (cleaned up).)

percentage of work completed and the value of that work based on a preapproved schedule of values, and expressly requested payment for the value of work completed, less a 10-percent retention." (*Id.*) The two documents thus were "separate documents with different functions." (*Id.*) Each request for progress payment was a "claim" because it was a "request or demand for money" made to the housing authority. (*Id.* at 739.) In contrast, the weekly payroll reports were "records required to be submitted under the contract" that were "made or used in support of [the contractor's] requests for progress payment," but were neither "claims" nor "false claims" as a matter of law and therefore could not support civil penalties. (*Id.*)

Second, the court similarly held that the contractor's periodic change order proposals requesting price increases for the contracted work were not "claims." It explained that "[a] change order proposal differs from a request for progress payment in that the former is a request to modify the contract to allow for future payment, while the latter is a request for immediate payment." (*Id.* at 741.) Because change order proposals are not a request or demand for money, but rather a record or statement made or used to get a false claim paid or approved, they were neither "claims" nor "false claims" under the Act, and could not support an award of civil penalties. (*Id.* at 741-742; see also, e.g., *In re Bank of New York Mellon Corp. False Claims Act Foreign Exchange Litigation* (N.D. Cal. 2012) 851 F.Supp.2d 1190, 1195-1197 [monthly reports prepared by fiduciaries reflecting fictitious rates for trades in foreign exchange, rather than the prices actually paid by defendants on the interbank market, were not "claims" for payment].)[5]

Fassberg is controlling here.[6] Like the weekly payroll reports and change order proposals in *Fassberg*, Defendants' rate-reset notifications, on their face, did not constitute or contain any request or demand for payment. Indeed, it would be surprising if they did, because interest payments on VRDOs

[5] Relator attempts to distinguish this case on the ground that it involved monthly transaction statements sent to municipalities *after* the transactions in question had already taken place. (Opposition, 35.) But no such reasoning or distinction appears in Judge Alsup's opinion, which found *Fassberg* controlling on the ground that the monthly reports containing the prices paid for standing instruction FX transactions did not constitute "claims" because plaintiffs did not allege that they contained any demand for payment; "plaintiffs only assert that the fraudulent pricing scheme *amounted to* demands for payments." (851 F.Supp.2d at 1196.) Precisely the same is true here.

[6] The CFCA was later amended in certain respects, including by expanding the definition of "claim." (See *Contreras I*, 182 Cal.App.4th at 448 fn. 7 [discussing 2009 amendments].) None of those subsequent amendments, however, altered the statutory language defining a claim to mean "any request or demand . . . for money," and thus they do not undermine *Fassberg* or call its core holding into question.

were made to bondholders, not to Defendant remarketing agents. (UMF 2.)[7] Thus, Defendants did not expect rate-reset notifications to prompt payment to Defendants. (SUF 4.)[8] Moreover, the rate-reset notifications did not even refer to the remarketing agreements, much less contain any certification as to Defendants' compliance with those contracts—and even such certifications were insufficient in *Fassberg* to render the payroll reports actionable as claims. Further, rate-reset notifications and remarketing invoices were sent to Issuers on different schedules. (UMF 3.) Like the payroll reports and requests for progress payments in *Fassberg*, they were "separate documents with different functions."[9]

Relator's contrary arguments are not persuasive. Relator dismisses *Fassberg* in a brief one-sentence footnote that fails to address its reasoning or its facts. (Opposition, 35 fn. 28.) It argues primarily that the rate-reset notifications "prompted payment of interest to bondholders" because the trustees could not have calculated the amount of interest they were required to pay without being notified of the rates that the remarketing agents had set. (*Id.* at 32.) But the same was true in *Fassberg*, where the housing authority could not have calculated the amount it owed under the contract without reviewing the change order proposals, which sought to modify the contract price.[10] Relator's reliance in its response to Defendants' separate statement on purportedly conflicting understandings of the notifications by Issuers and bondholders (see Resp. to SUF 1, 4) is misplaced. As Relator itself acknowledges, whether rate-reset notifications constitute "claims" calls for a legal conclusion, not a fact. (Resp. to SUF 1, 4; see also Resp.

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[7] "UMF" refers to the undisputed material facts in Relator's Response to Separate Statement of Undisputed Facts in Support of Defendants' Motion for Summary Judgment or, in the Alternative, Summary Adjudication filed July 25, 2025.

[8] "SUF" refers to Defendants' material facts set forth in Defendants' Separate Statement of Undisputed Material Facts in Support of Defendants' Motion for Summary Judgment or, in the Alternative, Summary Adjudication filed June 13, 2025.

[9] Neither party appears to have included in the record the actual interest invoices that were sent by the trustees, but Relator concedes they were separate from the rate-reset notifications. (See Opposition, 32 [referring to "the trustees' interest payment notices and invoices"]; *id.* at 34 [referring to "the trustee's interest payment invoices, and the rate reset notifications"].)

[10] Relator relies upon *U.S. ex rel. Schwedt v. Planning Research Corp.* (D.C. Cir. 1995) 59 F.3d 196 for the proposition that "[a] submission need not be an actual invoice to be a 'claim' or 'statement' under the FCA." (Opposition, 35-36.) However, the court there held only that if, as relator alleged, a contractor had submitted false progress reports stating that the software it had delivered under a government contract was complete when in fact it was not, "then these progress reports would constitute false statements in support of false claims and would trigger the Act's civil penalty." (*Id.* at 199.) It did not hold that they would constitute false claims, which is a distinct statutory prohibition. (See *Fassberg*, 152 Cal.App.4th at 735-736.) In any event, to the extent that the case is inconsistent with *Fassberg*, this Court is bound by the latter. (*Auto Equity Sales, Inc. v. Superior Court* (1962) 57 Cal.2d 450, 455.)

to SUF 4 ["It is also immaterial whether issuers believed rate-reset notifications were invoices or requested payment for defendants' services.].)[11] Finally, Relator's argument that rate reset notifications "have the practical purpose and effect of inducing payment" (Opposition, 35) is not only factually unsupported, it has been squarely rejected in a closely analogous case:

> Finally, plaintiffs argue that the statements were implicit requests because "they induced [plaintiffs] to continue paying out money through the Standing Instruction service." The point merits little discussion. Any behavior on plaintiffs' part the statements may have induced is irrelevant to whether the statements themselves were implicit or explicit requests or demands.

(*In re Bank of Mellon Corp. Forex Transactions Litigation* (S.D.N.Y. 2014) 991 F.Supp.2d 479, 492 (cleaned up).

In short, the Court concludes that Defendants' rate-reset notifications were not "claims" within the meaning of the CFCA because they did not contain any "request or demand" for money.

2. The Rate-Reset Notifications Are Not False.

Having determined that the rate-reset notifications were not "claims" within the meaning of the CFCA, the Court need not determine whether they were "false" claims. However, the issue is not moot because Relator separately alleges that they constituted "a false record or statement material to a false or fraudulent claim" within the meaning of the CFCA. (Gov. Code § 12651(a)(2); see 7AC ¶ 316.) Defendants assert that the rate-reset notifications "were truthful" because "[t]he interest rates listed in the rate-reset notifications were the actual rates that were set on those specific VRDOs on those specific dates." (Opening Brief, 19.) In particular, Defendants argue that the rate-reset notifications "accurately reported the reset rates that were set on VRDOs" (Reply, 4) and "make no representations whatsoever

[11] *Fassberg* illustrates the point. There, one of the housing authority's witnesses testified that the contractor's change order proposals contained "questionable charges" and "undocumented and unevidenced claims for money," but a second authority witness testified to his understanding that a change order proposal was *not* a request for payment: "It would not be a request for payment as far as I was concerned because they submitted on a monthly basis a billing for payment. It was—it was something that we owed them at some point in time, but there would not be a request for payment. They had a separate request for payment that they submitted monthly, and they could not include approved change order proposals on that—for payment for that until such time as they received the change order." (152 Cal.App.4th at 740-741.) The court found the apparent conflict immaterial: "The question whether the change order proposals were 'claims' for purposes of the California False Claims Act is a question of law involving the application of a statute to undisputed facts. Absent an underlying factual dispute, whether the change order proposals were 'claims' under the statute is a question of law for the court to decide without regard to the opinions of expert or percipient witnesses or the finding by the jury that Fassberg knowingly submitted 2,983 false claims." (*Id.* at 741.)

about defendants' services, let alone 'specific' or 'misleading ones" (*id.* at 4-5). Relator disagrees, arguing that the rate-resetting notifications "were indisputably false claims" "because the trustees' invoices to issuers demanded interest payments at rates that were set contrary to the requirements of the remarketing agreements and bond indentures." (Opposition, 32; see *id.* at 36 ["these rate notifications could only have been intended and understood to be false representations that the stated rates were the 'lowest' the market would bear"].) Relator also argues that "because Defendants caused those claims to be false by creating false records that informed those interest rate invoices (*e.g.*, rate reset notifications), then Defendants are liable for those false claims regardless of whether the trustees realized their interest rate invoices were false." (*Id.* at 32-33.)

Under the CFCA, claims are either "factually false or legally false. A factually false claim is one in which the claim for payment is itself literally false or fraudulent, such as when the claim involves an incorrect description of goods or serves provided or a request for reimbursement of goods or services never provided." (*United States v. Harper's Pharmacy, Inc.* (C.D. Cal. Aug. 12, 2025) 2025 WL 2684277, *3 (cleaned up); see *United States ex rel. Anita Silingo v. WellPoint, Inc.* (9th Cir. 2018) 904 F.3d 667, 675.) As to legal falsity, there are two theories of liability: "express false certification and implied false certification. Express false certification involves an entity's representation of compliance with the law as part of the process for submitting a claim when it is actually not compliant." (*Harper's Pharmacy*, 2025 WL 2684277 at *3 (cleaned up); see *State ex rel. Edelweiss Fund, LLC*, 90 Cal.App.5th at 1134 ["California courts distinguish between express and implied certification claims under the CFCA."]; *United States ex rel. Anita Silingo*, 904 F.3d at 675-676.) "By contrast, implied false certification occurs when an entity has previously undertaken to expressly comply with a law, rule, or regulation, and that obligation is implicated by submitting a claim for payment even though a certification of compliance is not required in the process of submitting the claim." (*United States ex rel. Anita Silingo*, 904 F.3d at 676 (cleaned up).) The Court addresses each in turn.

i. Relator Is Precluded From Proceeding On A Theory Of Factual Falsity Or Express False Certification Under The Law Of The Case Doctrine.

Defendants assert that "Relator cannot proceed on a factual falsity or express false-certification

theory because it is bound under the law of the case doctrine by the First District's holding that it has alleged only a theory of implied false certification." (Opening Brief, 21.) The Court agrees.

"The law of the case doctrine holds that when an appellate opinion states a principle or rule of law necessary to the decision, that principle or rule becomes the law of the case and must be adhered to through its subsequent progress in the lower court and upon subsequent appeal." (*People v. Jimenez* (2024) 103 Cal.App.5th 994, 1006 (cleaned up).) The purpose of the doctrine is to "prevent[] parties from seeking appellate reconsideration of an already decided issue in the same case, absent some significant change in circumstances." (*Id.* (cleaned up); see *Truck Ins. Exchange v. Kaiser Cement & Gypsum Corp.* (2024) 16 Cal.5th 67, 87 fn. 6.) The doctrine applies when "the point of law must have been presented and determined by the court, the issue must have been necessary to the prior decision, and application of the doctrine must not result in an unjust decision. But the doctrine does not apply where the controlling rules of law have been altered or clarified by a decision intervening between the first and second appellate determinations." (*Id.* at 1006-1007 (cleaned up).) Additionally, the doctrine "does not extend to points of law which might have been but were not presented and determined in the prior appeal. As an exception to the general rule, the doctrine is held applicable to questions not expressly decided but implicitly decided because they were essential to the decision on the prior appeal." (*Leider v. Lewis* (2017) 2 Cal.5th 1121, 1127 (cleaned up); see *id.* at 1130 ["general rule that law of the case does not apply to arguments that might have been but were not presented and resolved on an earlier appeal"].)

In *State ex rel. Edelweiss Fund, LLC*, Relator made two arguments regarding why the trial court erred in sustaining Defendants' demurrer to the 7AC. (90 Cal.App.5th at 1134.) First, Relator argued "that the trial court applied an overly burdensome particularity requirement, effectively adopting the federal plausibility standard that California law does not support." (*Id.*) Second, Relator argued "that the trial court erred in concluding that the [7AC] did not adequately plead falsity." (*Id.*) As to the second contention, Relator "argue[d] that it has alleged not only an implied certification claim, but also an 'archetypal *qui tam* False Claims action' based on a 'literal false or fraudulent' claim for payment." (*Id.* at 1135.) The Court of Appeal rejected the second argument, stating it was "not persuaded." (*Id.*) The Court of Appeal reasoned that Relator "does not allege that defendants should have claimed some *lower*

amount for payment than they actually did. Nor does it allege any other *express false statement* in defendants' claims for payment. Instead, it alleges that defendants impliedly certified compliance with their contractual obligations by submitting payment for those services, and that this implied certification was false because defendants knew those services had not been performed as promised." (*Id.* (emphases in original); see also *id.* ["the trial court determined that because Edelweiss had alleged an implied certification claim, it was required to adequately plead falsity based on a failure of defendants' *express* contractual 'Rate Resetting Obligation' as set forth in their RMA agreements: to reset the interest rate for California VRDOs at the lowest possible rate that would enable them to sell the series at par." (emphasis in original)].) Relator characterizes this as a "passing reference to Relator's factual falsity theory" and as "*dictum* not necessary to the decision reversing the trial court's order sustaining a general demurrer." (Opposition, 8; see *id.* at 9.) The Court disagrees.

"A decision on a matter properly presented on a prior appeal becomes the law of the case even though it may not have been absolutely necessary to the determination of the question whether the judgment appealed from should be reversed. Thus, application of the law-of-the-case doctrine is appropriate where an issue presented and decided in the prior appeal, even if not essential to the appellate disposition, was proper as a guide to the court below on a new trial." (*People v. Boyer* (2006) 38 Cal.4th 412, 442 (cleaned up).)

Here, Relator on appeal squarely "challenge[d] two underlying determinations made by the trial court regarding what [Relator] had alleged and what it was required to plead." (*State ex rel. Edelweiss Fund, LLC*, 90 Cal.App.5th at 1134.) As to the first, Relator argued that it had alleged falsity under theories of express *and* implied false certification. (*Id.* at 1135.) The Court of Appeal explicitly rejected Relator's argument that it had alleged an express false certification claim but agreed that Relator had alleged an implied false certification claim. (*Id.*) Therefore, the issue of whether Relator pled an express false certification claim was directly presented and decided in the prior appeal. Although the Court of Appeal did not reverse on that ground, it necessarily decided that the case could not proceed on an express false certification theory. The Court of Appeal's opinion guides further proceedings under the 7AC. (See *Leider*, 2 Cal.5th at 1134 ["Statements responsive to issues raised on appeal and intended to guide the trial

court on remand are not dicta."].)

Relator further argues that the Court of Appeal "did not consider the argument Relator presents here: that under the CFCA, factually false claims also include those that contain 'an incorrect description of goods or services provided or a request for reimbursement for goods or services never provided.'" (Opposition, 9, quoting *United States ex rel. Anita Silingo*, 904 F.3d at 675.) However, Relator's argument is based on the definition of a factually false claim: "A factually false claim is one in which the claim for payment is itself literally false or fraudulent, *such as* when the claim involves an incorrect description of goods or services provided or a request for reimbursement for goods or services never provided." (*United States ex rel. Anita Silingo*, 904 F.3d at 675 (cleaned up).) The Court of Appeal considered and rejected Relator's argument: Relator "does not allege any other *express false statement* in defendants' claims for payment." (*State ex rel. Edelweiss Fund, LLC*, 90 Cal.App.5th at 1135.)

As "[t]he complaint limits the issues to be addressed at the motion for summary judgment" (*Agustin*, 116 Cal.App.5th at 442 (cleaned up)) and the Court of Appeal found that Relator did not plead an express false certification claim under the CFCA, Relator is precluded from proceeding on a theory of factual falsity or express false certification.[12]

ii. Defendants Do Not Make Any Implied False Certifications In The Rate-Reset Notifications.

As a threshold matter, the parties dispute the legal standard for implied false certification. On the one hand, Defendants assert that the implied false certification test set forth in *Universal Health Services, Inc. v. Escobar* (2016) 579 U.S. 176 ("*Escobar*") controls here. (Opening Brief, 22; Reply, 12.) On the other hand, Relator argues that Defendants "misstates California law on implied false certification" by relying "on an overly narrow construction of" *Escobar*. (Opposition, 9.) Relator argues that the "Supreme Court did not hold, as Defendants now claim, that an implied false certification can *only* be a basis for liability when the *Escobar* test is satisfied." (*Id.* at 10 (emphasis in original).) Rather, Relator asserts that the Court of Appeal "laid out the requirement for an implied false certification theory under California law" in *San Francisco Unified School District ex rel. Contreras v. Laidlaw Transit, Inc.* (2010)

[12] This conclusion also follows as to remarketing invoices.

182 Cal.App.4th 438 ("*Contreras I*"). (*Id.* at 11; see *id.* at 13-14.) Relator asserts "[t]here is thus no need to turn to federal law." (*Id.* at 14.)

At the outset, Relator takes inconsistent positions regarding the legal standard for implied false certification. As the Court pointed out in its order on Defendants' motion for summary adjudication on Relator's claims for liquidity fees, both parties previously "treated the two-part standard set forth by the Supreme Court in *Escobar* for implied certification claims as controlling." (Jul. 1, 2025 Order, 11.) "Indeed, as Defendants point out, Relator's own pleadings echo the same standard. (7AC ¶ 317 ["The claims for payment Defendants have presented or caused to be presented to California have not merely requested payment, but also have made specific representations about the goods or services provided."].") (*Id.*) "Although Defendants expressly raised the issue in their motion, Relator did not argue that the standard under the California False Claims Act differs in any way. . . . At the hearing, however, Relator argued for the first time that *Contreras* somehow supplies a different test that is binding here." (*Id.* (cleaned up).) Relator's position on the instant motions is similarly inconsistent. (Compare, e.g., Relator's Opening Brief, 29 ["To establish implied false certification, a plaintiff must show that the claim does not merely request payment, but also makes specific representations about the goods or services provided, and that the defendant's failure to disclose noncompliance with material requirements makes those representations misleading half-truths" (cleaned up)] with Relator's Reply, 20-23 [denying that *Escobar* established such a standard].)

In *Escobar*, the relators alleged "that Universal Health (acting through Arbour) submitted reimbursement claims that made representations about the specific services provided by specific types of professionals, but that failed to disclose serious violations of regulations pertaining to staff qualifications and licensing requirements for these services." (*Escobar*, 579 U.S. at 184-185 (cleaned up).) In particular, "the Massachusetts Medicaid program requires satellite facilities to have specific types of clinicians on staff, delineates licensing requirements for particular positions (like psychiatrists, social workers, and nurses), and details supervision requirements for other staff." (*Id.* at 185.) The relators alleged that "Universal Health [] flouted these regulations because Arbour employed unqualified, unlicensed, and unsupervised staff. The Massachusetts Medicaid program, unaware of these deficiencies,

paid the claims." (*Id.*) The Court reasoned that "by submitting claims for payment using payment codes that corresponded to specific counseling services, Universal Health represented that it had provided individual therapy, family therapy, preventative medication counseling, and other types of treatment." (*Id.* at 189.) The Court also reasoned that "Arbour staff members allegedly made further representations in submitting Medicaid reimbursement claims by using National Provider Identification numbers corresponding to specific job titles." (*Id.*) The Court concluded that "[b]y using payment and other codes that conveyed this information without disclosing Arbour's many violations of basic staff and licensing requirements for mental health facilities, Universal Health's claims constituted misrepresentations." (*Id.* at 190.) The Court held that "the implied certification theory can be a basis for liability, at least where two conditions are satisfied: first, the claim does not merely request payment, but also makes specific representations about the goods or services provided; and second, the defendant's failure to disclose noncompliance with material statutory, regulatory or contractual requirements makes those representations misleading half-truths." (*Id.* at 190 (cleaned up).)[13]

"The [Supreme] Court did not state that its two conditions were the *only* way to establish liability under an implied certification theory." (*United States ex rel. Rose v. Stephens Institute* (9th Cir. 2018) 909 F.3d 1012, 1018 (emphasis in original).) However, post-*Escobar*, Ninth Circuit cases "appear to *require Escobar's* two conditions nonetheless." (*Id.* (emphasis in original).) Therefore, "Relators must satisfy *Escobar*'s two conditions to prove falsity, unless and until [the Ninth Circuit] interprets *Escobar* differently." (*Id.*; see *United States v. McKesson Corporation* (N.D. Cal. Feb. 16, 2021) 2021 WL 583506, *4.) Further, as discussed above, Relator itself has repeatedly taken the same position.

This Court has previously concluded that *Contreras I*, "which predated *Escobar* by six years, is not inconsistent with it in any way." (Jul. 1, 2025 Order, 11.) Rather, *Contreras I* "merely rejected the contention that the CFCA does not recognize any form of implied false certification liability—the very same conclusion reached by the U.S. Supreme Court in *Escobar*." (*Id.* at 11-12.) In *Contreras I*, the qui

[13] The Court did not resolve "whether all claims for payment implicitly represent that the billing party is legally entitled to payment," inasmuch as "[t]he claims in this case do more than merely demand payment. They fall squarely within the rule that half-truths—representations that state the truth only so far as it goes, while omitting critical qualifying information—can be actionable misrepresentations." (579 U.S. at 188.)

tam plaintiffs alleged that the defendant failed to maintain and repair the company's school buses as required by the company's contract with the San Francisco Unified School District. The company argued that it was "immune from liability under the CFCA because its invoices did not expressly assert compliance with the requirements of the Contract" and because "there was no literally false information on the face of the invoices." (182 Cal.App.4th at 447-448.) The court disagreed. Relying on "federal decisions [that] provide support for an implied certification of CFCA liability," the court concluded that an implied certification of compliance with a contract, "if false and fraudulent, can form the basis for a CFCA action." (*Id.* at 448-449.) The court observed that, in the case before it, the government's obligation to pay the defendant was conditioned on its satisfactory performance of services under the contract, which included compliance with certain maintenance requirements and specified environmental safety regulations. (*Id.* at 451-452.) Thus, the court concluded, plaintiffs stated a claim under the CFCA where they alleged that the defendant had engaged in a "fraudulent course of conduct" by, among other things, utilizing buses that were inadequate or unsafe operating condition, intentionally causing tests of diesel exhaust levels to be falsified, and falsifying safety reports required by the California Highway Patrol so that unrepaired buses could remain in service. (*Id.* at 443-444, 453; see also, e.g., *San Francisco Unified School Dist. ex rel. Contreras v. First Student, Inc.* (2014) 224 Cal.App.4th 627, 638-649 ("*Contreras II*") [subsequent opinion in same case reversing summary judgment for defendant, holding that there were triable issues of material fact as to both materiality and defendant's knowledge of or reckless disregard as to the falsity of its implied certification].) The court held that "[u]nder the CFCA, a vendor impliedly certifies compliance with its express contractual requirements when it bills a public agency for providing goods or services." (*Contreras I*, 182 Cal.App.4th at 442.)

> It is reasonable for governmental entities to assume that contractors seeking payment are in compliance with the material terms of their contracts. If a contractual provision turns out to be unduly onerous or a contractor needs more time to comply, the contractor does not expose itself to liability under the CFCA if it informs the governmental entity of the problem and seeks an accommodation. But if that same contractor is aware of the noncompliance and chooses to seek payment without informing the government, then it is a fraud appropriately within the scope of the CFCA. To exclude such fraud would be contrary to this court's obligation to construe the CFCA broadly so as to give the widest possible coverage and effect to the prohibitions and remedies it provides. The act is intended to reach all types of fraud, without qualification, that might result in financial loss to the Government.

(*Id.* at 452 (cleaned up).)

Thus, *Contreras I* "is entirely consistent with *Escobar*." (Jul. 1, 2025 Order, 12.) "The CFCA was enacted in 1987 and was modeled on the federal" FCA. (*Mao's Kitchen, Inc. v. Mundy* (2012) 209 Cal.App.4th 132, 146.) "Where, as here, California law is modeled on federal laws, federal decisions interpreting substantially identical statutes are unusually strong persuasive precedent on construction of our own laws." (*Upland Police Officers Assn. v. City of Upland* (2003) 111 Cal.App.4th 1294, 1308 (cleaned up).) Indeed, "[t]he CFCA follows the *federal* false certification theory for purposes of applying California Government Code § 12651(a)(1)-(2)." (*United States ex rel. Turner v. Dynamic Medical Systems, LLC* (E.D. Cal. Jan. 24, 2022) 2022 WL 20804350, *18, citing *Contreras I*, 182 Cal.App.4th 447-450.) Accordingly, the Court need not choose between the legal standards articulated in *Contreras I* and *Escobar*. Rather, the two cases work together. *Contreras I* supplies the principles for implied certification under the CFCA and *Escobar* provides the applicable test.

(1) Relator Does Not Raise A Triable Issue of Material Fact Regarding The Falsity Of Rate-Resetting Notifications Under A Theory Of Implied False Certification.

Defendants assert that the rate-resetting notifications were truthful because "[t]he interest rates listed in the rate-reset notifications were the actual rates that were set on those specific VRDOs on those specific dates, and there is no allegation or evidence otherwise." (Opening Brief, 19; see Reply, 4-5 [rate-resetting notifications do not make any representations regarding Defendants' services].) Relator disagrees, arguing that "[i]n light of Defendants' express rate resetting obligations, these rate notifications could only have been intended and understood to be false representations that the stated rates were the 'lowest' the market would bear." (Opposition, 36.)

Relator alleges that "Defendants knowingly presented . . . false or fraudulent claims for payment or approval by submitting or causing to be submitted, invoices or statements to California for payment for remarketing services, interest income, and letter of credit services which, because of Defendants' Robo-Resetting scheme, were artificially high, the subject of collusion, and based on services never performed, not performed as promised or required, or ultimately unnecessary." (7AC ¶ 315; see *id.* ¶ 317 ["The claims for payment Defendants have presented or caused to be presented to California have not merely

requested payment, but also have made specific representations about the goods or services provided. Defendants submitted to California invoices, statements, or bills on a monthly or otherwise regular basis that were requests or demands for money under a contract or other binding agreement."].) Relator alleges that "Defendants' failure to disclose noncompliance with material statutory, regulatory or contractual requirements made the claims for payment false and based on false misleading half-truths. Specifically, Defendants' failure to disclose their use of Robo-Resetting, their coordinated and collusive rate-setting activities, and their failure to reset or remarket VRDOs individually and competitively at the lowest possible rates, made the claims for payment false and based on false and misleading half-truths." (*Id.* ¶ 318.)

Defendants meet their initial burden of production on summary judgment as to the first prong of the *Escobar* test—that the rate-resetting notifications, on their face, do not make any specific representations. (See, e.g., Sisk Decl. (BofA) Exs. 1-2; Leffler Jr. Decl. (Citi) Exs. 17-22; Defs. Ex. 89; Loughney Decl. (Morgan Stanley) Exs. 11-12; Laraia Decl. (RBC) Ex. 8; Lee Decl. (WF) Ex. 8.) In response to Defendants' material fact that "[r]ate-reset notifications did not contain any factually inaccurate information: the interest rates listed in the rate reset-notifications were in fact the rates set on those specific VRDOs on those specific dates" (SUF 7), Relator does not submit any evidence to raise a triable issue of material fact.

Accordingly, Defendants' motion as to the rate-resetting notifications is granted.

3. Rate-Resetting Notifications – False Records

Defendants assert that Relator's opposition "offers a new, alternative theory that the notifications are 'false records' under Government Code § 12651(a)(2) because they were 'material' to the 'false claims' that VRDO trustees allegedly made for the interest payments owed to VRDO investors." (Reply, 2.) Defendants argue that Relator's false records theory fails for three independent reasons: (1) Relator did not plead the false records theory in the 7AC; (2) the rate-reset notifications are not false; and (3) the trustee invoices are not false. (*Id.* at 6-8; see also Opening Brief, 18.) The Court addresses each ground in turn.

i. Relator Pleads A False Records Theory Of Liability Regarding Rate-Resetting Notifications.

"The complaint limits the issues to be addressed at the motion for summary judgment. Accordingly, the burden of a defendant moving for summary judgment only requires that he or she negate plaintiff's theories of liability *as alleged in the complaint*; that is a moving party need not refute liability on some theoretical possibility not included in the pleadings. The rationale for this principle is clear: it is the allegations in the complaint to which the summary judgment motion must respond." (*Agustin v. Golden Empire Transit District* (2025) 116 Cal.App.5th 426, 442 (cleaned up).) Here, the parties dispute whether Relator pled a false records theory in the 7AC. On the one hand, Relator cites to three paragraphs of the 7AC to establish that it pleads a false record theory. (Opposition, 33.) On the other hand, Defendants argue that the allegations in the 7AC merely parrot the language of the relevant Government Code section and fail to plead with particularity. (Reply, 6 & fn. 4.)

The CFCA imposes civil liability on any person who "[k]nowingly makes, uses, or causes to be made or used a false record or statement material to a false or fraudulent claim." (Gov. Code § 12651(a)(2).) Relator alleges that Defendants violated Government Code section 12651(a)(2) when they "knowingly made, used, or caused to be made or used, a false record or statement material to a false or fraudulent claim by expressly or impliedly representing to California that they have (i) reset or remarketed their California VRDOs at the lowest possible rates, and (ii) reset or remarketed the VRDOs actively, individually and on a weekly basis, while actually engaging in a Robo-Resetting scheme where they have colluded in their rate-setting activity and collectively reset rates mechanically on a group-wide basis and at inflated prices and made no effort to reset or remarket the bonds competitively and at the lowest possible rates." (7AC ¶ 316.) Relator also alleges that "Defendants submitted or caused to be submitted false invoices, statements, records, and data that were material to California's engagement of and payments to Defendants for remarketing and letter of credit services, California's payments of interest to its VRDO investors, and California's payments to non-Defendant providers of letter of credit services." (*Id.* ¶ 321.)

Based on these allegations, Relator pleads a false records theory under the CFCA. Moreover, "[i]t is not the purpose of the procedure under [Code of Civil Procedure] section 437c to test the sufficiency of

the pleadings. If the pleadings are insufficient, the defect may be raised by demurrer or motion to strike, or by motion for judgment on the pleadings." (*McHugh v. Howard* (1958) 165 Cal.App.2d 169, 174 (cleaned up).) Although Defendants argue that the parties did not develop this theory in discovery, Defendants do not seek a continuance of this motion to conduct discovery under Code of Civil Procedure section 437c(h).

ii. Relator Does Not Raise A Triable Issue Of Material Fact Regarding False Records.

The CFCA permits the recovery of civil penalties and treble damages from any person who "[k]nowingly makes, uses, or causes to be made or used a false record or statement material to a false or fraudulent claim." (Gov. Code § 12651(a)(2).) Defendants argue that the "rate-reset notifications are not 'false records' under [Government Code] Section (a)(2) because they are not 'false.' Rather, they are factually accurate notifications that made no implied false certifications about Defendants' services." (Reply, 7.) Defendants submit exemplar rate-resetting notifications to establish those notifications are not false. (See, e.g., SUF 7 [citing evidence].) Again, Relator does not submit any evidence in response to raise a triable issue of material fact.

Therefore, Defendants' motion is granted as to false records.

B. Defendants Are Not Entitled To Summary Adjudication Of Remarketing Invoices.

Defendants contend that their remarketing "invoices contained accurate information about the fees due under the Remarketing Agreements and made no representations—let alone false ones—about the manner in which Defendants provided their services or Defendants' compliance with those contracts." (Opening Brief, 20; see *id.* at 22-23; see also *id.* at 28; Reply, 11-12, 15.) Relator disagrees, asserting that the remarketing invoices were legally false because "each time a Defendant sent an issuer a remarketing invoice, it impliedly certified that it had complied with the express and implied requirements in the remarketing agreements and bond indentures, and that it had exercised judgment to set the VRDO interest rates at the lowest market-clearing levels." (Opposition, 25; see also *id.* at 24, 26-27, 28 ["Defendants were obligated to exercise their judgment for a specific end: to reset VRDOs at the lowest possible rates taking into account prevailing market conditions. They uniformly failed to do so, and when they did not

disclose this failure to issuers, they submitted false claims. Moreover, they evaded their obligation to objectively assess prevailing market conditions by secretly and improperly sharing material non-public price-sensitive information with each other. Again, this rendered their claims false."].) For the following reasons, the Court finds that the record does not entitle Defendants to summary adjudication as to remarketing invoices.

By way of background, Relator alleges that "California has hired Defendants as 'remarketing agents' to actively and individually market and price [VRDOs] at the lowest possible interest rates. California paid Defendants fees to perform these remarketing services. However, Defendants did not perform the services as required." (7AC ¶ 3; see *id.* ¶¶ 4, 7.) In particular, Relator alleges that "RMAs have two basic jobs, for which issuers typically pay an average annual fee of roughly 10 basis points of the VRDO debt balance." (*Id.* ¶ 30; see also *id.* ¶ 296.)

> First, RMAs are required to set (typically on a weekly basis) the VRDO interest rate at the lowest possible interest rate that would enable the RMA to sell the VRDO at par. This is the 'Rate Resetting Obligation.' In order to determine the minimum interest rate for a VRDO, an RMA must consider prevailing financial market conditions for that VRDO. Consideration of prevailing market conditions required Defendants to take into account, among other things, the unique characteristics of the VRDO and its issuer, conditions in the relevant market for the VRDO, conditions in the market more generally, the liquidity provider of the VRDO, demand for the specific VRDO by potential investors, and demand for VRDOs more broadly, as differentiated from demand for other short-term debt instruments, both taxable and non-taxable.

(*Id.* ¶ 31; see *id.* ¶¶ 50-54.) "Second, RMAs are required to use their best efforts to 'remarket' at the lowest possible interest rate the VRDOs to other investors when the existing investor 'puts' or 'tenders the bond back to the RMA for a return of its investment (at face value plus interest). This is the 'Remarketing Obligation.'" (*Id.* ¶ 32; see *id.* ¶¶ 67-69.)[14] Relator alleges that "[b]ond transaction documents set forth Defendants' complementary contractual obligations to reset an individual VRDO's interest rate as low as possible (the Rate Resetting Obligation) and to use its best efforts to actively resell a tendered VRDO (the Remarketing Obligation)." (*Id.* ¶ 34.) Relator alleges that "[t]he requirement to *actively* and *individually* determine the lowest rate for *each* VRDO in light of prevailing market conditions for a *specific* VRDO is further supported by binding regulations regarding the process by

[14] As discussed *infra*, Relator's claims regarding the Remarketing Obligation are not properly before the Court.

which Defendants were to exercise reasonable professional judgment and to take into account prevailing financial market conditions. Beyond that, Defendants' own representations to California regarding the procedure by which they would satisfy their Rate Setting and Remarketing Obligations further support the conclusion that Defendants were required to *actively* and *individually* determine the lowest rate for *each* VRDO, in light of prevailing market conditions for *that specific* VRDO." (*Id.* ¶ 49 (emphases in original); see *id.* ¶¶ 55-65 [Municipal Securities Rulemaking Board rules], 70-88.)

Relator alleges that "Defendants knowingly presented . . . false or fraudulent claims for payment or approval by submitting, or causing to be submitted, invoices or statements to California for payment for remarketing services . . . which, because of Defendants' Robo-Resetting scheme, were artificially high, the subject of collusion, and based on services never performed, not performed as promised or required, or ultimately unnecessary. These include invoices or statements for payment for remarketing services related to the specific issuance (identified by CUSIP number)." (*Id.* ¶ 315; see also *id.* ¶¶ 316, 318.) Relator alleges that "[t]he claims for payment Defendants have presented or caused to be presented to California have not merely requested payment, but also have made specific representations about the goods or services provided." (*Id.* ¶ 317.)

1. Fact Issues Preclude Finding That Defendants' Remarketing Invoices Did Not Contain Specific Representations.

It is undisputed that "Defendants reset rates on the VRDOs for which they served as remarketing agents." (UMF 17.)[15] It is also undisputed that "Defendants sent Issuers (or conduit obligors in the case of conduit bonds) invoices for the remarketing services they provided on a quarterly, semi-annual, or annual basis, in accordance with the billing procedures set forth in the remarketing agreements they entered into with Defendants." (UMF 20.) It is further undisputed that "[a]s established in the remarketing agreements, remarketing fees are calculated based on the principal amount of the VRDO outstanding and are not based on the interest rates set by Defendants." (UMF 24.)

The parties do not dispute that under a theory of implied false certification, "when a defendant

[15] "UMF" refers to the undisputed material facts in Relator's Response to Defendants' Separate Statement of Undisputed Material Facts in Support of Defendants' Motion for Summary Judgment filed July 25, 2025.

submits a claim, it impliedly certifies compliance with all conditions of payment. But if that claim fails to disclose the defendant's violation of a material statutory, regulatory, or contractual requirement, [] the theory [is], the defendant has made a misrepresentation that renders the claim 'false or fraudulent' under" the False Claims Act. (*Escobar*, 579 U.S. at 180; accord, *Contreras I*, 182 Cal.App.4th at 442 ["Under the CFCA, a vendor impliedly certifies compliance with its express contractual requirements when it bills a public agency for providing goods or services."].) Here, Defendants fail to show that their remarketing invoices do not contain such omissions or misrepresentations, such that the Court could conclude as a matter of law that they are not false claims within the meaning of the CFCA. In support of their motion, Defendants submit a number of exemplar remarketing invoices. Relator contends that the remarketing invoices sought payment for "remarketing services," which implies that Defendants complied with the material requirements of the remarketing agreements. (Opposition, 27.) The Court agrees. While the precise format and wording of the remarketing invoices vary slightly from Defendant to Defendant, each of them refers explicitly or implicitly to the underlying remarketing agreements, which in turn contain the material contractual requirement that each Defendant set the lowest interest rate on the VRDOs that in their judgment would allow the bond to be sold to investors at par value.

The clearest example is provided by the remarketing fee invoices submitted by Defendants Bank of America, JPMorgan, and RBC, which included the following or similar statement: "In accordance with the Remarketing Agreement, we submit our invoice for remarketing services." (Sisk Decl. Exs. 3-4 [BofA]; see Defs. Ex. 89 at Ex. B [JPMorgan]; Laraia Decl. Ex. 7 [RBC].) Defendants assert that "[t]he clause '[i]n accordance with the Remarketing Agreement' modifies the verb 'submit' and not the phrase 'remarketing services.' Accordingly, as Issuers understood, Defendants submitted the invoices because the remarketing agreements permit Defendants to bill for their services." (Opening Brief, 23 fn. 50.) The Court rejects Defendants' strained reading of this language. In the Court's view, the most plausible interpretation of that statement is as an implied certification that Defendants had complied with their contractual obligations under the remarketing agreements and therefore were entitled to payment for their services. Relator argues this "at best presents an issue of fact for the jury to resolve." (Opposition, 27.) The Court agrees. Indeed, the record evidence reflects conflicting deposition testimony regarding this

language. (Compare, e.g., Defs. Ex. 81, 127:14-130:13; Ex. 124, 92:18-93:12 with Amanat Decl. Ex. MISC-TR1, 176:2-177:3; Ex. MISC-TR4, 142:18-144:1; Ex. BAML-TR13, 121:14-122:22.)

Similarly, Relator submits remarketing fee invoices from Morgan Stanley, which state: "Please find below Morgan Stanley's charges for remarketing services for the period . . . for the following issues." (Amanat Decl. Exs. MS-PX22-MS-PX23.) The use of the phrase "Morgan Stanley's charges for remarketing services" in the remarketing fee invoices is sufficient to raise a triable issue of material fact as it implicitly references Morgan Stanley's contractual obligations regarding remarketing services and associated fees. (See, e.g., *United States ex rel. Rose*, 909 F.3d at 1018 [art school's representations that students applying for federal financial aid were accepted for enrollment in an eligible program, which failed to disclose school's noncompliance with ban on paying incentive compensation to admissions officers, could be considered "misleading half-truths"]; *United States ex rel. Campie v. Gilead Sciences, Inc.* (9th Cir. 2017) 862 F.3d 890, 902-903 [by submitting claims for payment or reimbursement for certain HIV drugs, pharmaceutical company represented that it provided medications approved by the FDA that were manufactured at approved facilities and were not adulterated or misbranded].) As these post-*Escobar* cases and *Escobar* itself make clear, the requirement that a claim must contain specific representations about the defendant's performance is not difficult to satisfy. "Just as payment codes correspond to specific health services . . . , these drug names necessarily refer to specific drugs under the FDA's regulatory regime." (*Campie*, 862 F.3d at 902-903 (cleaned up).) If the standard were more demanding, such that each individual invoice must contain explicit and detailed misrepresentations to qualify as a "claim," it would incentivize defendants to prepare and send bare-bones invoices so as to avoid liability for fraud. Such a result would be at odds with the principle that the CFCA "must be construed broadly so as to give the widest possible coverage and effect to the prohibitions and remedies it provides." (*State ex rel. Edelweiss Fund, LLC*, 90 Cal.App.5th at 1127 (cleaned up).)

As to Citi, Wells Fargo, and Morgan Stanley, the remarketing invoices include "wiring instructions and information identifying the VRDO, par amount, Issuer, billing period, and fee." (SUF 21; see Loughney Decl. Exs. 6, 8, 10 [Morgan Stanley]; see, e.g., Leffler, Jr. Decl. Exs. 10-13 [Citi]; Lee Decl. Ex. 4 [WF].) Similarly, other invoices generally refer to "**REMARKETING FEE INVOICE**" (*id.*

at Ex. Citi-PX25), "**Remarketing Fees Due**" (*id.*), or "Remarketing Agent" (*id.* at Ex. WF-PX6). While these invoices do not contain any direct reference to the underlying remarketing agreements, they nevertheless implicitly reference those agreements and Defendants' obligations under those agreements. Thus, as in *Escobar*, "[t]he claims in this case do more than merely demand payment. They fall squarely within the rule that half-truths—representations that state the truth only so far as it goes, while omitting critical qualifying information—can be actionable misrepresentations." (*Escobar*, 579 U.S. at 188 (cleaned up).)

Therefore, Defendants do not meet their initial burden on summary adjudication and even if they had, Relator raises a triable issue of material fact.

2. Defendants Do Not Meet Their Initial Burden Of Production On Summary Adjudication Regarding Compliance With Contractual Obligations.

It is undisputed that "[t]he rate-setting provision in the Remarketing Agreements and indentures required Defendants to set the lowest rate on VRDOs that in their judgment would allow the bond to be sold to investors at par value when the rate later became effective." (UMF 4.) Relator "itself acknowledges that the remarketing agreements do not mandate a specific process that defendants must use to arrive at [the lowest possible rate on each VRDO to enable them to sell the series at par]. Nonetheless, it follows from defendants' rate resetting obligation that they must employ some methodology that is in principle capable of allowing them to comply with it." (*State ex rel. Edelweiss Fund, LLC*, 90 Cal.App.5th at 1136.) Defendants submit deposition testimony from various issuers confirming that the "remarketing agreements did not contain specific steps that remarketing agents were required to take to demonstrate that they exercised judgment in setting rates." (SUF 9; see, e.g., Def. Exs. 25, 51:1-18, 52:14-53:13[PMQ for City of Riverside]; 26, 38:14-17 [PMQ for the University of California]; Ex. 123, 81:10-83:21 [PMQ for Santa Clara Valley Transportation Authority]; Ex. 146, 34:22-35:7, 35:19-36:5 [PMQ for San Francisco Airport Commission]; Ex. 147, 118:22-119:22 [PMQ for Los Angeles Department of Water and Power]; Ex. 161, 58:25-59:5 [PMK for Metropolitan Water District of Southern California]; see also, e.g., *id.* at Ex. 55, 55:15-58:12 [PMQ for the California State Treasurer's Office].) Moreover, Thomas Hays, Person Most Qualified for the Eastern Municipal Water District, testified that

"the lowest rate to permit the sale of the investment . . . could be [] subjective or it could be left for interpretation." (Def. Ex. 162, 163:13-16.)

Defendants argue that "[t]he Remarketing Agreements required Defendants to reset rates according to their 'judgment,' a term that is subjective by definition." (Opening Brief, 24 (cleaned up).) Defendants contend that their "opinions and predictions about future [VRDO] demand are not objectively verifiable statements that can be proven 'false'" where the "Remarketing Agreements provided no objective standard for assessing their exercise of judgment." (*Id.* at 25; see also *id.* at 26 [no external standard]; Reply, 16.) Relator disagrees, arguing that "obligations conditioned upon the exercise of judgment do not in themselves immunize defendants from FCA liability or preclude a finding of falsity." (Opposition, 28.) Relator contends that "Defendants were obligated to exercise their judgment for a specific end: to reset VRDOs at the lowest possible rates taking into account prevailing market conditions. They uniformly failed to do so . . . Moreover, they evaded their obligation to objectively assess prevailing market conditions by secretly and improperly sharing material non-public price-sensitive information with each other." (*Id.* at 27-28.)

Defendants rely on *U.S. ex rel. Wilson v. Kellogg Brown & Root, Inc.* (4th Cir. 2008) 525 F.3d 370. (Opening Brief, 24-25.) There, the relators brought an action under the FCA, alleging that the defendants "fraudulently induced the United States into awarding an Army task order in connection with its work as a civilian contractor in Iraq." (*Id.* at 373.) "After their initial set of FCA claims were dismissed by the district court, Relators moved for leave to file a third amended complaint," which the district court denied as futile. (*Id.* at 375.) On appeal, the relators argued the defendant "fraudulently represented in a DD Form 1155 that it would comply with the contract's maintenance requirements, all the while knowing it would not do so." (*Id.* at 376.) The first element of a fraudulent inducement claim under the FCA is that "there was a false statement or fraudulent course of conduct." (*Id.* (cleaned up).) "To satisfy this first element of an FCA claim, the statement or conduct alleged must represent an objective falsehood." (*Id.*; see *Fru-Con Const. Corp. v. Sacramento Mun. Utility Dist.* (E.D. Cal. June 15, 2007) 2007 WL 1791699, *18 ["at a minimum, the FCA requires proof of an objective falsehood. Expressions of opinion, scientific judgments, or statements as to conclusions about which reasonable

minds may differ cannot be false." (cleaned up)].) The relators contended "that the completed DD Form 1155 constitutes a false statement because KBR agreed to the maintenance conditions in the contract even though it knew it would not, and later did not, abide by those terms." (*U.S. ex rel. Wilson*, 525 F.3d at 377.) The court disagreed, stating that "this assertion rests not on an objective falsehood, as required by the FCA, but rather on Relator's subjective interpretation of KBR's contractual duties." (*Id.*) The court held that "[a]n FCA relator cannot base a fraud claim on nothing more than his own interpretation of an imprecise contract provision. To hold otherwise would render meaningless the fundamental distinction between actions for fraud and breach of contract." (*Id.* at 378; see also *United States v. McKesson Corporation* (N.D. Cal. Aug. 18, 2020) 2020 WL 4805034, *5 ["The Ninth Circuit has held that when the statutory or contractual requirement underlying an FCA claim contains imprecise and discretionary language, there is only a disputed legal issue rather than an objective statement of fact that can be deemed false under the FCA." (cleaned up)].)

In *Contreras I*, which involved similar factual allegations, the Court of Appeal declined to "decide whether *Wilson's* construction of the federal FCA on this point is applicable to a CFCA claim. Arguably, the knowledge element of a CFCA claim addresses this issue, because a plaintiff will have more difficulty showing knowledge of an implied certification of compliance where the contractual requirement at issue is imprecise." (*Contreras I*, 182 Cal.App.4th at 450 fn. 9; see also *In re Bank of New York Mellon Corp. Forex Transactions Litigation*, 991 F.Supp.2d at 493 fn. 86 ["Defendants contend also that CFCA claims must be grounded in an 'objective falsehood,' whereas federal mail fraud requires only that the statement be misleading. But plaintiffs do not contend merely that 'best execution' was misleading. Rather, they allege that the term had an industry meaning objectively inconsistent with defendants' pricing practices. The Court thus need not consider whether the CFCA incorporates a stricter falsity standard than federal mail fraud." (cleaned up)].)

Defendants acknowledge that some federal courts, including the Ninth Circuit, have found that a contract calling for an opinion or judgment can be false. (Opening Brief, 26 fn. 54.) However, Defendants assert that is only the case where "there is also an agreed-upon external standard by which to measure that judgment or opinion." (*Id.*; see Reply, 17.) Not so. In *Winter ex rel. United States v.*

Gardens Regional Hospital and Medical Center, Inc. (9th Cir. 2020) 953 F.3d 1108, 1117, the defendants and various amici curiae raised an argument similar to Defendants' here. In particular, they urged the Ninth Circuit "to hold the FCA requires a plaintiff to plead an 'objective falsehood.'" (*Id.* (cleaned up).) However, the court found the text of the FCA did not support such a restriction. The Ninth Circuit stated that "[u]nder the plain language of the statute, the FCA imposes liability for all 'false or fraudulent claims'—it does not distinguish between 'objective' and 'subjective' falsity or carve out an exception for clinical judgments and opinions." (*Id.* (cleaned up); accord *United States ex rel. Druding v. Care Alternatives* (3rd Cir. 2020) 952 F.3d 89, 96 ["The central question on appeal is whether a hospice-care provider's claim for reimbursement can be considered 'false' under the FCA on the basis of medical-expert testimony that opines that accompanying patient certifications did not support patients' prognoses of terminal illness. The answer is a straightforward yes. In coming to this conclusion, we declined to adopt the District Court's 'objective' falsity standard, as the test is inconsistent with the statute and contrary to this Court's interpretations of what is required for legal falsity."]; *United States ex rel. Polukoff v. St. Mark's Hospital* (10th Cir. 2018) 895 F.3d 730, 742 ["the fact that an allegedly false statement constitutes the speaker's opinion does not disqualify it from forming the basis of FCA liability" (cleaned up)].) Thus, the Ninth Circuit held "that the FCA does not require a plaintiff to plead an 'objective falsehood.' A physician's certification that inpatient hospitalization was 'medically necessary' can be false or fraudulent for the same reason any opinion can be false or fraudulent. These reasons include if the opinion is not honestly held, or if it implies the existence of facts . . . that do not exist." (*Winter ex rel. United States*, 953 F.3d at 1119 (cleaned up); see *Vatan v. QTC Medical Services, Inc.* (9th Cir. 2020) 812 Fed.Appx. 487, 487 fn. 2 [in *Winter*, the Ninth Circuit "held that a physician's medical opinion can be considered 'false' within the meaning of the False Claims Act under some circumstances, such as where the opinion is not honestly held by the doctor."]; *United States ex rel. Turner*, 2022 WL 20804350 at *17 ["Because Congress did not define 'false or fraudulent,' we presume it incorporated the common-law definitions, including the rule that a statement need not contain an 'express falsehood' to be actionable. Under the common law, a subjective opinion is fraudulent if it implies the existence of facts that do not exist, or if it is not honestly held." (cleaned up)]; see also *United States ex rel. Schutte*, 598

U.S. at 749 [where pharmacies were required to bill Medicare and Medicaid for their "usual and customary" drug prices, "even though the phrase 'usual and customary' may be ambiguous on its face, such facial ambiguity alone is not sufficient to preclude a finding that respondents knew their claims were false."]; *id.* at 754 ["The facial ambiguity of the phrase thus does not by itself preclude a finding of scienter under the FCA."].)

Therefore, objective falsity is not required for a CFCA claim. Defendants' motion, as it regards the second prong of *Escobar*, is limited to arguing that there can be no falsity where the contractual exercise of judgment by remarketing agents is subjective. As Defendants do not raise any other ground on summary adjudication regarding compliance with their contractual obligations, Defendants' motion must be denied on this ground.[16]

3. Relator Is Precluded From Proceeding On The Remarketing Obligation Claim.

Defendants assert that "Relator waived any claim that Defendants submitted 'false claims' by failing to use their 'best efforts' to remarket tendered VRDOs" under the law of the case doctrine because Relator did not raise any argument as to the Remarketing Obligation in the prior appeal. (Opening Brief, 30; see Reply, 20.) Relator disagrees, arguing that the Court's (Massullo, J.) "dismissal order addressed only the obligation to reset interest rates at the lowest market-clearing level, sustaining Defendants' demurrer for failure to allege violation of *that* obligation with particularity. Accordingly, in seeking reversal of that order, Relator addressed that lowest interest rate obligation and did not address the related best efforts obligation." (Opposition, 29.)[17] Relator is mistaken. In its order sustaining Defendants'

[16] In any event, the record reflects disputed issues of material fact regarding whether RMAs reset VRDO rates at the lowest possible rate to clear par. (See, e.g., Relator's Response to Defendants' Separate Statement of Undisputed Material Facts, 19-22, 37-43.) Indeed, that is the central disputed factual issue in the case, and is the subject of extensive disputed expert testimony.

[17] Relator also fails to mention the Court's November 3, 2025 Order on Defendants' Motions to Exclude the Expert Opinions and Testimony of Bradley Wendt, Einer R. Elhauge, and S. Ilan Guedj, which expressly rejected Relator's "best efforts" claim. In that order, the Court found (1) that Relator did not allege that it suffered any damages separately attributable to Defendants' purported breach of their best efforts obligation to broaden their remarketing efforts, and that "[a]llowing Relator to pursue this duplicative theory of damages therefore would result in an impermissible windfall" and (2) that none of the Relator's "expert witnesses offer any opinion that it sustained measurable damages separately attributable to Defendants' alleged failure to exercise their best efforts to remarket the VRDOs to a diverse group of investors." (Nov. 3, 2025 Order, 42-43.)

demurrer to Plaintiff's Seventh Amended Complaint without leave to amend, the Court (Massullo, J.) found that Relator "has not adequately alleged falsity under a theory based on implied certification of express contractual requirements—including the rate level obligation and the remarketing obligation." (June 1, 2021 Order, 25; see also *id.* at 25 fn. 20 ["The Court does not find particularized allegations in the 7AC that independently address Defendants' remarketing efforts."].) On appeal, Relator did "not make any argument that it adequately pleaded a CFCA claim based on [the Remarketing Obligation]," and as a result the Court of Appeal "deem[ed] any such argument waived." (*State ex rel. Edelweiss Fund, LLC*, 90 Cal.App.5th at 1131 fn. 5.)[18]

"In order to prevail on appeal from an order sustaining a demurrer, the appellant must affirmatively demonstrate error. Specifically, the appellant must show that the facts pleaded are sufficient to establish every element of a cause of action and overcome all legal grounds on which the trial court sustained the demurrer." (*Scott v. JPMorgan Chase Bank, N.A.* (2013) 214 Cal.App.4th 743, 752.) In turn, the appellate court will affirm the trial court's "ruling if there is any ground on which the demurrer could have been properly sustained." (*Id.*) An appellate court's review "is limited to issues which have been adequately raised and supported in appellants' opening brief. Thus, where a demurrer is sustained without leave to amend, the appellant's failure to address certain causes of action in the complaint is deemed an abandonment of those causes of action." (*Alborzi v. University of Southern California* (2020) 55 Cal.App.5th 155, 184 (cleaned up).) Thus, it follows that Relator abandoned its CFCA claim as to the Remarketing Obligation. Relator does not cite any authorities that would support its contrary contention. Accordingly, Relator is precluded from proceeding on the Remarketing Obligation.

B. Defendants Do Not Meet Their Initial Burden On Summary Judgment Regarding Scienter.

Defendants assert that "[t]here is no evidence that Defendants subjectively believed their claims for payment were false at the time of submission." (Opening Brief, 2; see also *id.* at 17, 30-31; Reply, 22-25.) In particular, Defendants contend that "there is zero evidence that any of Defendants' employees

[18] If Relator believed the Court of Appeal erred in that regard, its remedy was to file a petition for rehearing. "A petition for rehearing is the correct remedy to address material inaccuracies or omissions in a disposition." (*Ducoing Management, Inc. v. Superior Court* (2015) 234 Cal.App.4th 306, 314.)

believed they were failing to reset rates according to their own judgment, much less that they believed their invoices were 'implicitly' certifying they had used their judgment when in fact they knew they had not." (Opening Brief, 32.) Relator disagrees, asserting that it "has adduced substantial evidence that Defendants ignored their responsibility to individually assess the market conditions for each VRDO and instead bucketed dissimilar VRDOs together in ways that defied basic economic principles." (Opposition, 48; see, e.g., *id.* at 48-49.)

"Under the CFCA, 'knowingly' means that one 'has actual knowledge of the information,' 'acts in deliberate ignorance of the truth or falsity of the information,' or 'acts in reckless disregard of the truth or falsity of the information." (*JPMorgan Chase Bank, N.A. v. Superior Court* (2022) 85 Cal.App.5th 477, 492 (cleaned up); see Gov. Code § 12650(b)(3); *United States ex rel. Schutte v. SuperValu Inc.* (2023) 598 U.S. 739, 750 ["In short, either actual knowledge, deliberate ignorance, or recklessness will suffice."].) "Proof of specific intent to defraud is not required." (*Contreras II*, 224 Cal.App.4th at 646 (cleaned up); see Gov. Code § 12650(b)(3).) "The definition of 'knowingly' in the federal FCA is the same as the definition in the CFCA." (*JPMorgan Chase Bank, N.A.*, 85 Cal.App.5th at 492 (cleaned up); see 31 U.S.C. §§ 3729(a)(1)(A), 3729(b)(1)(A)-(B); *Thompson Pacific Construction, Inc. v. City of Sunnyvale* (2007) 155 Cal.App.4th 525, 549 ["The CFCA contains the same scienter requirements as the federal law."].) Defendants have a heavy burden on summary judgment to negate scienter. (*United States ex rel. Hartpence v. Kinetic Concepts, Inc.* (9th Cir. 2022) 44 F.4th 838, 851-852 [reversing summary judgment where district court's ruling reflected "a clear failure to view the evidence in the light most favorable to the relator"; although defendant had a "strong case to make to jurors" regarding lack of scienter, its showing failed to negate reasonable inferences that could be drawn from the evidence]; *Contreras II*, 224 Cal.App.4th at 647-649 [reversing summary judgment as to whether defendant acted in reckless disregard of the truth of its implied certifications of contractual compliance where "plaintiffs' evidence demonstrates that different reasonable inferences" could be drawn from the evidence].) "Only when the inferences are indisputable may the court decide the issues as a matter of law." (*Contreras II*, 224 Cal.App.4th at 649 (cleaned up).)

"The FCA's scienter element refers to [Defendants'] knowledge and subjective beliefs—not to

what an objectively reasonable person may have known or believed." (*United States ex rel. Schutte*, 598 U.S. at 749; see *id.* at 754 ["the FCA's scienter standards are plainly satisfied by a defendant's conscious belief that his claims are false"].) "First, the term 'actual knowledge' refers to whether a person is 'aware of' information. Second, the term 'deliberate ignorance' encompasses defendants who are aware of a substantial risk that their statements are false, but intentionally avoid taking steps to confirm the statement's truth or falsity. And, third, the term 'reckless disregard' similarly captures defendants who are conscious of a substantial and unjustifiable risk that their claims are false, but submit the claims anyway." (*Id.* at 751 (cleaned up).) "Both the text [of the FCA] and the common law also point to what the defendant thought when submitting the false claim—not what the defendant may have thought *after* submitting it." (*Id.* at 752 (emphasis in original). Thus, to prevail on summary judgment, Defendants must establish (1) they did not actually know that the VRDO rates were not set at the lowest possible rate to clear the market; (2) they were not aware of a substantial risk that the VRDO rates were not set at the lowest possible rate to clear the market; or (3) they were not aware of such a substantial and unjustifiable risk that the VRDO rates were not set at the lowest possible rate to clear the market.

Defendants set forth three material facts to support their motion. First, "Defendants' rate resetters believed they were complying with their obligations in the remarketing agreements." (SUF 26.) Second, "Defendants' rate resetters believed they were exercising judgment to set the lowest market clearing rates." (SUF 27.) Third, "[a]s part of exercising judgment, Defendants' rate resetters continuously collected and assessed market and bond-specific information." (SUF 28.) These material facts conflate compliance with contractual obligations with knowledge of falsity. (See *United States ex rel. Schutte*, 598 U.S. at 747 ["two essential elements of an FCA violation are (1) the falsity of the claim and (2) the defendant's knowledge of the claim's falsity"].) Defendants do not set forth any material facts as to knowledge. The failure to set forth those material facts is dispositive. (*California-American Water Co.*, 86 Cal.App.5th at 1296-1297 ["if it is not set forth in the separate statement, *it does not exist* . . . And if the separate statement does not contain all material facts on which the motion is based, the moving party has failed to meet its initial burden of production and is not entitled to summary adjudication as a matter of law"].)

Moreover, there is evidence demonstrating that remarketing agents could not have known whether they set VRDO interest rates at the lowest possible rate to clear the market.

> Q. So how did you know if you had set the rate at the lowest rate that, in your judgment, would clear the market? A. Well, you really -- you really can't know because markets change on -- markets change on a daily basis. So it's -- maybe after the fact you can kind of come to conclusions where, like, if all of a sudden inventory's blowing off the shelf, then maybe you could say, I probably could have set the rate lower, or it could be the flip side of that and, I should have set the right higher, if I see inventory coming back. But at that moment in time, based on information that I have going on and trading activity that I have going on from the prior week, that's kind of what I'm basing my decision on, plus other factors involved, like the one I mentioned earlier with the time of the month, and that is strictly -- that is strictly a judgment call. There's really -- it's hard to say. There's no way to really determine whether you were right or whether you were wrong, but inventory will tell you that.

(Defs. Ex. 50, 191:25-192:25 [Citi].) Thus, even if Defendants had set forth material facts specifically as to knowledge of falsity, the record suggests, just as one would expect, that scienter is a significant fact-intensive inquiry that is not appropriate for resolution on summary judgment. (Accord *United States ex rel. Morsell v. Symantec Corporation* (D.D.C. 2020) 471 F.Supp.3d 257, 301 ["Scienter is 'a fact-intensive inquiry' in an FCA suit, so it is hardly surprising that it cannot be resolved at summary judgment." (cleaned up)].)

Accordingly, Defendants' motion is denied as to scienter.

C. There Are Triable Issues Of Material Fact As To The Existence Of A Conspiracy.

Defendants assert that there is no evidence of a conspiracy. (Opening Brief, 2; see *id.* at 17, 33-41; see also Reply, 25-26 [no evidence of an agreement to submit false claims].) Relator disagrees, arguing that "all of the Defendants here regularly and collusively communicated material non-public information ('MNPI') about their future VRDO rates to each other and to other major banks." (Opposition, 40.) In particular, Relator contends that "[t]hese [major] banks shared with each other information about VRDO rates they were prospectively going to set, via (i) direct communications such as emails, telephone calls, and chats on the Bloomberg platform, (ii) a secret, invitation-only index managed by Standard & Poor's ('S&P's) known as the 'PARS' Index, (iii) the JJ Kenny ('JJK') Weekly High-Grade Index, and (iv) a Thomson-Reuters publication called TM3." (*Id.*; see also *id.* at 41, 44-47.) Relator asserts that "[t]hrough these collusive communications, each Defendant knew, in advance of resetting rates on its own VRDOs, both the range of rates its competitors were going to set for their

VRDOS for effect the following day, and, within a single basis point, where the bellwether SIFMA Index (a benchmark rate for VRDOs) would land the next day." (*Id.* at 40 (cleaned up); see also *id.* at 41-43.)

A person may violate the CFCA by conspiring to commit a violation of the CFCA. (Gov. Code § 12651(a)(3).) The elements of a conspiracy claim are: "(1) the formation and operation of the conspiracy, (2) wrongful conduct in furtherance of the conspiracy, and (3) damages arising from the wrongful conduct." (*State ex rel. Edelweiss Fund, LLC*, 90 Cal.App.5th at 1144, quoting *AREI II Cases* (2013) 216 Cal.App.4th 1004, 1022.) "The FCA does not define conspiracy and the Ninth Circuit has not weighed in on the definition, but courts have held that general civil conspiracy principles apply to conspiracy claims brought under [the FCA]. Under the general civil conspiracy principles, a civil conspiracy is a combination of two or more persons who, by some concerted action, intend to accomplish some unlawful objective for the purpose of harming another which results in damage. The unlawful objective must reflect the conspirators' unity of purpose or a common design and understanding, or a meeting of the minds in an unlawful arrangement, which can be inferred from the circumstances and conspirators' actions. To be liable, each participant in the conspiracy need not know the exact details of the plan, but each participant must at least share the common objective of the conspiracy." (*United States ex rel. Turner*, 2022 WL 20804350 at *25 (cleaned up); see *United States of America and State of California, ex rel. Kareem N. Mohamad and Mentallah Megahed, et al. v. Harper's Pharmacy Inc.* (C.D. Cal. Nov. 13, 2025) 2025 WL 3724875, *8 ["Civil conspiracy principles apply to FCA conspiracy claims."].)

Defendants submit evidence that they did not have any formal agreements with others regarding rate resetting. (See, e.g., SUF 29 [citations to evidence].) Defendants state that some of them "occasionally exchanged market color with one another, which contained general observations about the market but not information about specific VRDO rates." (SUF 30.) However, Relator's expert, Einer R. Elhauge opines that:

> the evidence shows that the alleged wrongdoers shared what were essentially projected future rates through two separate indexes, Standard & Poor's J. J. Kenny Index ('J.J. Kenny Index') and PARS Index, and that this was a mechanism for their alleged collusion or coordination from April 2009 through January 2013. Moreover, during the 2010-2012 time period when these indexes were alleged to be used as a mechanism for collusion or coordination, both indexes were accurate predictors of the average rates that the alleged wrongdoers later set for VRDOs, as measured by

> the Securities Index and Financial Markets Association Municipal Swap Index ('SIFMA Index'), whereas these indexes were much less predictive of SIFMA during the period before they were alleged to be providing a mechanism for collusion or coordination. This pattern is not economically rational unless, during the period, the alleged wrongdoers were treating the two indexes as their collective target rate for the overall set of VRDOs measured in SIFMA, and then colluding or coordinating to set actual rates for their VRDOs in a way that corresponded to that target rate . . . the alleged wrongdoers also shared future pricing projections through VRDO market commentaries produced by James Kellyhouse, and directly communicated with other remarketing agents, including regarding VRDO interest rate projections.

(Elhauge-CA-Sum. ¶ 16; see, e.g., *id.* ¶¶ 17-22.) Mr. Elhauge also opines that there is "evidence establishing substantial direct communication between the alleged wrongdoers, which could supplement the communications made through the J.J. Kenny Index and PARS Index . . . There is also extensive evidence of direct inter-firm communications among the alleged wrongdoers regarding future projections of where SIFMA would be, what index submissions they planned to submit as their prediction of SIFMA, their future rates for VRDOs with specific characteristics, and their inventory levels. In addition to these written communications, the evidence indicates that the alleged wrongdoers repeatedly communicated with each other by phone or in person." (Elhauge-CA-Sum. ¶ 23; see, e.g., Amanat Decl. Exs. COLL-PX87-COLL-PX99 [direct communications between Defendants regarding SIFMA calls for a given week]; COLL-PX104-COLL-PX105.)

Defendants argue that even if these "allegations were true . . . the alleged agreement to share information still would fall far short of showing an agreement *to submit false claims*." (Reply, 26 (emphasis in original); see *id.* at 27 ["no evidence at all of an improper agreement related to setting VRDO rates"].) However, Relator alleges that Defendants conspired to commit a violation of the CFCA by agreeing to knowingly present or cause to be presented false or fraudulent claims for payment or approval *and* "to impliedly represent to California that they have (a) reset or remarketed their California VRDOs at the lowest possible rates, and (b) reset or remarketed VRDOs actively, individually and on a weekly basis, while actually engaging in a collusive [] scheme where they have coordinated their rate-setting activity and collectively reset rates mechanically on a group-wide basis and at inflated prices and made no effort to reset or remarket the bonds competitively and at the lowest possible rates." (7AC ¶ 319.) An agreement to impliedly represent VRDOS were reset at the lowest possible rates would be sufficient to establish a conspiracy to violate the CFCA here. "Due to the secret nature of conspiracies,

their existence is often inferentially and circumstantially derived from the character of the acts done, the relations of the parties, and other facts and circumstances suggestive of concerted action." (*Spencer v. Mowat* (2020) 46 Cal.App.5th 1024, 1037 (cleaned up).) Although there may not have been a formal agreement amongst Defendants, Defendants' regular communications with each other regarding rates raise a triable issue of material fact as to whether there was a tacit agreement amongst Defendants sufficient to constitute a conspiracy.

Accordingly, Defendants' motion is denied as to conspiracy.

D. Defendants Are Not Entitled To Summary Adjudication As To Relator's Claims Regarding Conduit Bonds.

Defendants seek summary adjudication with respect to Relator's causes of action regarding private conduit bonds on the ground that they are not "claims" under the CFCA. (Motion, 1; Opening Brief, 42-45; Reply, 8-11.) Defendants contend that conduit bonds "are not actionable under the CFCA because conduit-related invoices were presented solely to private borrowers and were not paid or reimbursed by State money." (Opening Brief, 42.) Thus, Defendants contend that "all conduit invoices and rate-reset notifications were 'presented' to private conduit borrowers, not to 'an officer, employee, or agent of the state or of a political subdivision.'" (*Id.* at 43, citing Gov. Code § 12650(a)(1).) Further, Defendants assert that "[p]rivate conduit borrowers—not public Issuers—were responsible for making those payments, and they did so with private funds, not funds provided by public Issuers." (*Id.*) Under the Remarketing Agreements and liquidity support agreements, "the private borrower was responsible for paying all remarketing and liquidity fees." (*Id.* at 44.) Therefore, Defendants argue, "no purported conduit 'claim' seeks funds 'provided' by the State or its political subdivisions." (*Id.*, citing Gov. Code § 12650(b)(1)(B)(i).) Finally, Defendants contend that "[p]rivate borrowers were the only entities that received conduit invoices . . . and paid fees related to conduit VRDOs," and there is "no evidence that private conduit borrowers' payments were ever 'reimbursed' by the State or a political subdivision." (*Id.* at 45.)

Relator opposes the motion, asserting that "[u]nder conduit VRDO agreements, the State issues the VRDOs and raises the capital, underwritten by an investment bank, and then lends these government

funds to a private entity." (Opposition, 36; UMF 65.) "At closing, part of the proceeds from the issuers' initial sale of the VRDOs is used to pay, in advance, for the RMA fees. Following receipt, the private entity uses the State-lent proceeds to pay the costs of the public benefit project, including the RMA fees and principal and interest payments, generally until the project begins to generate its own revenue." (*Id.* (cleaned up).) Further, Relator contends, "[t]he IRS deems the conduit issuer (the government unit) to be the taxpayer of record and requires that issuer to comply with applicable tax regulations—regardless of whether the transactional documents assign responsibilities for the project to a trustee." (*Id.* at 36-37.) It also contends that trustees "act as agents for the issuers (not for the borrowers) in performing the obligations detailed in the indenture, including providing books and records to the conduit issuer, making disbursements of funds from the proceeds on behalf of the conduit issuer, and producing periodic financing statement filings to the conduit issuer for review." (*Id.* at 37.) As a result, Relator contends, "demands for payment submitted to conduit VRDO trustees are demands made on an agent of the State" under Government Code section 12650(b)(1)(A). (*Id.*) Further, it argues, "Defendants' demands for RMA fees and their rate reset notifications sent to borrowers, issuers, and trustees on conduit VRDOs are 'claims'" within the meaning of the CFCA because, among other things, "the State 'provided' all or part of the money used to pay Defendants' RMA fee demands and to pay bondholders interest by issuing the VRDOs to advance a State or local government program or interest, and by lending the proceeds to the conduit borrower." (*Id.* at 38.)

"Conduit bonds are issued by public entities on behalf of private borrowers for private, government approved projects." (UMF 64.) In *California Statewide Communities Development Authority v. All Persons Interested etc.* (2007) 40 Cal.4th 788 ("*CSCDA*"), our Supreme Court described the arrangements entered into by a state joint powers authority (the "Authority" or "CSCDA"), which is one of the public issuers of conduit bonds involved here. CSCDA is statutorily authorized to issue tax exempt bonds to finance construction projects that provide a public benefit. (*Id.* at 794, citing Gov. Code § 6588 *et seq.*) The Court described the general purpose and structure of CSCDA conduit bonds as follows:

> By issuing tax exempt revenue bonds to finance industrial projects and residential units, as well as health care and educational facilities, the Authority promotes economic development for the

> benefit of its members. The Authority does not fund these projects or otherwise provide any financial subsidy in connection with the issuance of the bonds. It is involved in the financing transaction solely to provide a tax exemption to the private investors who purchase the bonds and thereby fund the private development. Because the government merely provides access to favorable tax treatment and does not itself finance the projects, this form of financing is commonly referred to as "pass through" or "conduit" financing; the government's issuance of the bonds provides a "conduit" for private financing to "pass through" to the recipient of the bond proceeds. No public monies are expended in this type of arrangement, as the recipient of the bond proceeds bears responsibility for payments of principal and interest to the private bond purchaser, which has no recourse against the government. In addition, the recipient also reimburses the public entity for the costs of issuing the bonds.

(*Id.* at 794 (cleaned up)); compare, e.g., *Azusa Land Partners v. Department of Industrial Relations* (2010) 191 Cal.App.4th 1, 22-29 [holding that the proceeds of Mello-Roos tax bonds to provide for partial funding of a planned community project eligible for public financing are "public funds" for purposes of the state prevailing wage law].) It is undisputed that 535 VRDOs at issue in this litigation are conduit bonds. (UMF 60.) Several other VRDOs at issue are also conduit bonds. (UMF 61-62.)

The dispositive issue raised by Defendants' motion is whether demands for payments to conduit VRDO trustees constitute a "claim" for payment within the meaning of the CFCA. As noted, Defendants contend they do not "because the associated invoices are presented solely to private borrowers and not paid or reimbursed with State money." (Reply, 8.) Defendants rely on testimony by public issuers and private borrowers regarding how the conduit bond issuances were structured. For example, the Managing Director for CSCDA describes the VRDOs that agency has issued on behalf of multiple conduit borrowers as follows:

> At the time of or shortly after the issuance of the conduit bonds, proceeds from the sale of the bonds are deposited with a bond trustee in a restricted fund. These proceeds are made available by requisition to the conduit borrower.
>
> All payment obligations associated with any bonds issued by CSCDA as a conduit issuer, including underwriting, remarketing, or liquidity provision fees and payments of principal and interest, are the sole responsibility of the conduit borrower. The bonds issued by CSCDA as a conduit issuer are non-recourse to CSCDA and payable solely from loan repayments made by the conduit borrower.
>
> CSCDA never paid fees for remarketing services or letter of credit services, has never made interest or principal payments in connection with the VRDOs, and has never made any other payments in connection with the VRDOs. To the best of my knowledge, CSCDA did not receive invoices for the payment of these fees; those invoices were directed to the conduit borrowers.

> CSCDA is not a party to any remarketing agreement entered into with respect to any bonds issued by CSCDA. The terms of all remarketing agreements entered into by any conduit borrower with respect to bonds issued by CSCDA are negotiated solely between the conduit borrower and the remarketing agent.
>
> The conduit borrower selects the underwriter or the purchaser of the bonds issued by CSCDA on behalf of that organization and, if applicable, the liquidity provider and credit enhancement provider for the bonds issued by CSCDA and negotiates the financial terms with the underwriter or the purchaser and with any liquidity provider or credit enhancement provider.

(Defs. Ex. 60 (Hamill Decl.) ¶¶ 4-8; see also, e.g., Defs. Ex. 61 (Ford Decl.) ¶¶ 3-4 [similar testimony by Scripps Health, a private conduit borrower of VRDOs issued by CSCDA and the California Health Facilities Financing Authority]; Defs. Ex. 62 (Zuckerman Decl.) ¶¶ 3-4 [similar testimony on behalf of Dignity Health, a conduit borrower of VRDOs issued by the same two agencies]; Defs. Ex. 149 (Maniscalco Decl.) ¶¶ 3-5 [similar testimony on behalf of City of Modesto as issuer of conduit VRDOs on behalf of private-sector borrowers]; Defs. Ex. 150 (Christensen Decl.) ¶¶ 3-5 [same]; Defs. Ex. 165 (Baker Decl.) ¶¶ 3-8 [similar testimony on behalf of California Municipal Finance Authority as issuer on behalf of conduit borrowers].)

In response to this characterization of the conduit bond transactions, Relator contends as follows: "Under conduit VRDO agreements, the State issues the VRDOs and raises the capital, underwritten by an investment bank, and then *lends these government funds to a private entity*." (Opposition, 36; Resp. to UMF 65 (emphasis added).) Defendants insist that Relator has mischaracterized the record. (Reply, 9.) Not so: Relator's contention is supported by the evidence it cites. Documentation of the underlying transactions themselves makes clear that at least in some of the transactions at issue, the government issuer entered into a separate loan of the bond proceeds to the private borrower. For example, a 2008 Trust Indenture between the City of Modesto as the Issuer and The Bank of New York Mellon Trust Company, N.A. as Trustee provides that the City will issue $4.425 million in bonds to provide for the refinancing of a multifamily rental housing development. (Amanat Decl. Ex. BAML-PX53.) The Trust Indenture recites that "The Issuer has agreed to use the proceeds of the sale of Bonds to make a mortgage loan . . . to the Borrower in connection with the Project." (*Id.* at *8443; see also *id.* at *8448 [defining "Bond Mortgage Loan" as "the loan made by the Issuer to the Borrower pursuant to the Bond Mortgage Loan Documents"].) Other VRDO transactions were similarly structured. (See, e.g., *id.* at Ex. MISC-PX15.A [California

Educational Facilities Authority Variable Rate Demand Revenue Bonds (California Institute of Technology), July 12, 2006, at *914, *956, *1035-1083, containing Loan Agreement under which Authority agreed to loan borrower California Institute of Technology the proceeds of the Bonds to finance and refinance certain educational facilities and to pay Costs of Issuance with the proceeds of Authority revenue bonds]; Ex. MISC-PX15.B [same as to Series B]; Ex. MISC-PX16 [California Health Facilities Financing Authority, Variable Rate Revenue Bonds (Scripps Health) Series 2008E, *33444 ["The Authority will lend the proceeds of the Bonds to Scripps Health, which loan will be evidenced by a Loan Agreement . . . ."].)

Thus, at least as to the VRDOs involved in those and similar transactions, Defendants' contention that "no government funds were used" (Reply, 9) appears to be incorrect: in fact, bond proceeds raised by government issuers were lent to private borrowers. (See *Azusa Land Partners*, 191 Cal.App.4th at 26-27 [rejecting as "incorrect" argument by developer, recipient of bond funds, that "the funds never actually enter (or exit) public coffers . . . . The money enters public coffers and is retained there before it is paid to [the developer]. Tax revenue also is held in public coffers before it is paid to the bondholders."]; compare *id.* at 27 [discussing, as an example of "true conduit bond financing," a case in which "the financing was accomplished through conduit bonds and the public entity assigned all of its rights, including possession and control of the money, to an independent third party. The public entity was truly a mere 'conduit' to obtain bond funds; neither the initial bond funds nor the repayment funds were ever in the public coffers or under the public entity's control."].)

Even more broadly, Defendants' contention that demands for payment in connection with the conduit bonds cannot constitute a "claim" is irreconcilable with the broad statutory definition of "claim" in the CFCA and the legislative history of that definition. Under the CFCA, as discussed above, a "claim" is defined as "any request or demand, whether under a contract or otherwise, for money, property, or services, and whether or not the state or a political subdivision has title to the money, property, or services," that meets either of the following conditions:

> (A) Is presented to an officer, employee, or agent of the state or of a political subdivision.
>
> (B) Is made to a contractor, grantee, or other recipient, if the money, property, or service is to be spent or used on a state or any political division's behalf or to advance a state or political subdivision's program or interest . . . .

(Gov. Code § 12650(b)(1)(A),(B.) Under the second condition, in turn, the state or political subdivision must meet either of two additional conditions:

> (i) Provides or has provided any portion of the money, property, or service requested or demanded.
>
> (ii) Reimburses the contractor, grantee, or other recipient for any portion of the money, property, or service that is requested or demanded.

(*Id.* § 12650(b)(1)(B)(i),(ii).)

Relator contends that the proceeds of the VRDO conduit bonds used to pay the remarketing fees fall squarely within this statutory language, as follows:

- The requests or demands for payment (e.g., the remarketing invoices) are made "under a contract" (the remarketing agreements and bond indentures);
- The money is to be spent "to advance a state or political subdivision's program or interest" (e.g., the public interest sought to be advanced by the bonds); and
- The State or other political subdivision "provided" all or part of the money used to pay Defendants' RMA fees by lending the proceeds to the conduit borrower, which in turn used the proceeds to pay Defendants' remarketing fees.

(Opposition, 38.)

Defendants do not dispute that the first two of these factors are met. Nor do they dispute that remarketing invoices were sent to borrowers who were "recipients" of the funds in question. (See Opening Brief, 43 ["all conduit invoices and rate-reset notifications were 'presented' to private conduit borrowers"].)[19] Rather, they argue that public issuers do not "provide" funds for conduit VRDOs, arguing that the argument is inconsistent with the general description of conduit financing in *CSCDA* because "no public monies are expended in this type of arrangement." (*Id.* at 43-44; Reply, 10.) Defendants contend that the California Supreme Court's decision in *State of California v. Altus Finance, S.A.* (2005) 36 Cal.4th 1283, is "directly on point" and "remains precedential" in determining whether the statutory definition is

[19] For that reason, the Court need not address Relator's further contention that "[t]rustees act as agents for the issuers (not for the borrowers) in performing the obligations detailed in the indenture, including providing books and records to the conduit issuer, making disbursements of funds from the proceeds on behalf of the conduit issuer, and producing periodic financing statement filings to the conduit issuer for review." (Opposition, 37; Resp. to UMF No. 65.)

met. (Opening Brief, 44-45; Reply, 11.) The Court disagrees. In 2005, when *Altus Finance* was decided, the CFCA defined "claim" as "any request or demand for money, property, or services made to any employee, officer, or agent of the state or any political subdivision, or to any contractor, grantee, or other recipient, whether under contract or not, if any portion of the money, property, or services requested or demanded issued from, or was provided by, the state." (36 Cal.4th at 1294, quoting former Gov. Code § 12650(b)(1).) Applying that former definition, the Court concluded that the assets of an insolvent insurance company to which the Insurance Commissioner acquires title in the Commissioner's capacity as conservator or liquidator do not constitute "state funds" within the meaning of the CFCA, reasoning that "[t]he CFCA does not apply because it was intended to prevent false requests or demands that impact the public treasury." (*Id.* at 1291.) The Court reasoned that "the assets to which the Commissioner holds title do not become part of the public treasury, but are held in trust for the benefit of private parties," such as policyholders and creditors of the insolvent insurer. (*Id.* at 1298.) Thus, "[b]ecause the Attorney General alleges that defendants falsely procured private, rather than public, funds, he may not allege a claim under the CFCA." (*Id.* at 1302.)

Although Defendants rely heavily on the quoted language, *Altus Finance* is no longer good law on this issue. The 2009 amendments to the CFCA "expand[ed] the definition of a claim." (Stats. 2009, c. 277 (A.B. 1196) § 1 [Leg. Counsel's Digest].) In particular, they added to the quoted language the proviso that a claim exists "whether or not the state or a political subdivision has title to the money, property, or services." That language effectively overruled the contrary holding in *Altus Finance*. Under the expanded definition of a claim, it no longer is material whether the State takes title to the affected funds or they become part of the public treasury, if the State provides any part of those funds.[20]

The 2009 amendments to the CFCA closely mirrored amendments to the federal False Claims Act in the 2009 Fraud Enforcement and Recovery Act, which similarly broadened the definition of a claim under that Act to include a request or demand for money, "whether or not the United States has title to the money or property." (31 U.S.C. § 3729(b)(2); see also, e.g., *Sanders v. Allison Engine Co., Inc.* (6th Cir.

[20] Defendants contend that California courts continue to rely on *Altus Finance* even after the 2009 amendments to the CFCA. (Reply 11 & fn. 8.) None of the cases they cite, however, involved the question of whether the State "provides" funds within the meaning of the CFCA.

2012) 703 F.3d 930, 932 [noting that FERA also specifically amended the FCA in order to remove the requirement that the claim be presented to the government].) In particular, under that language, as under the parallel language of Government Code section 12650(b)(1)(B)(i), a request for money qualifies as a claim if the Government "provides or has provided any portion of the money . . . requested." (31 U.S.C. § 3729(b)(2)(A)(ii)(I).)[21] That language is broadly construed: the statutory term "provides" means that "the Government supplied, furnished, or made available any portion of the money sought." (*Wisconsin Bell, Inc. v. United States ex rel. Heath* (2025) 604 U.S. 140, 149; see also *id.* at 150 ["It is a simple matter, as the saying goes, of following the money."].)[22] Here, the governmental issuers "provided" the funds necessary for the private borrowers to construct their projects by raising the necessary capital and transferring it (and, at least in some cases, loaning it) to borrowers.

If there were any doubt, the legislative history of the 2009 amendments to the CFCA makes that conclusion explicit. It explains that "[r]ecent opinions by federal and state courts have resulted in outcomes that the author believes do not or will not give full effect to the Legislature's intent to protect state treasury funds from false claims when it enacted the CFCA." (Cal. Bill Analysis, Senate, 2009-2010 Reg. Sess., A.B. 1196 (May 28, 2009), 2.) In that regard, the Senate Report specifically addressed two decisions, the U.S. Supreme Court's decision in *Allison Engine Co. v. U.S. ex rel. Sanders* (2008) 553 U.S. 662, and the California Supreme Court's *Altus Finance* decision:

> In June 2008, the U.S. Supreme Court in Allison Engine v. U.S. ex rel Sanders, 553 U.S. ___ (2008), considered provisions of the federal False Claims Act that impose civil liability on a person who knowingly uses a "false record or statement to get a false or fraudulent claim or approved by the Government" (emphasis added), 31 U.S.C. 3729(a)(2). The Court held that a plaintiff asserting a claim under 3729(a)(2) must prove that the defendant intended that the false record or statement be material to the government's decision to pay or approve the false claim.

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[21] The purpose of the amendment was to respond to a district court decision holding that funds administered by the United States during the reconstruction of Iraq were not U.S. Government funds covered by the False Claims Act. (S. Rep. No. 111-10 (111th Cong., 1st Sess. 2009), at 12, discussing *U.S. ex rel. DRC, Inc. v. Custer Battles, LLC* (E.D. Va. 2005) 376 F.Supp.2d 617, 645-646, rev'd, 562 F.3d 295 (5th Cir. 2009).)

[22] On remand, the district court denied Wisconsin Bell's motion for partial summary judgment on the issue of damages, rejecting its argument that because the underlying fund was predominantly (though not exclusively) funded by telecommunications carriers, "to the extent the government did not hold title to the money distributed, the government did not sustain any 'damages' under the FCA." (*United States ex rel. Health v. Wisconsin Bell, Inc.* (E.D. Wisc. Oct. 29, 2025), --- F.Supp.3d ----, 2025 WL 3033792, *4.) The parties have not raised, and the Court here does not address, the availability or measure of damages or civil penalties for alleged violations relating to conduit bonds.

> Thus, Allison Engine may preclude prosecutions under the CFCA in cases where state funds are disbursed to fund a construction project, and the contractor then pays a false claim with "government funds" received from the government. This unwanted result may occur because the false claim was not technically "paid or approved by the Government." In 2005, the California Supreme Court held that the "state funds" subject to protection under the CFCA "only includes funds that are in some sense part of the state treasury, the diminution of which harms or would harm taxpayers." (State of California v. Altus Finances [sic], S.A. (2005) 36 Cal.4th 1284, 1302.) To address concerns raised by these two court decisions, the author of this bill seeks to amend the existing definition of "state funds" and "political subdivision funds" to include money, property, or services that were appropriated, administered, expended, or that will be reimbursed directly or indirectly by the state or political subdivision, respectively.

(*Id.*) The legislative history went on to explain that "[t]he expanded language is aimed at ensuring CFCA protections apply to billions of dollars of government funds disbursed to contractors and other organizations that administer state or local programs." (*Id.*)

This statutory language, and its explication in the underlying legislative history, is controlling here. Whether or not the State or a political subdivision had title to the funds used to pay the contested remarketing fees, or those funds became part of the public treasury, those funds were "provided" by the State or other governmental issuers to the private borrowers to construct projects imbued with a public interest. Just as the legislative history foresaw, this case involves a situation "where state funds are disbursed to fund a construction project, and the contractor then pays a false claim with 'government funds' received from the government." Defendants' motion for summary adjudication as to Relator's claims against conduit VRDOs therefore must be denied.

E. Defendants Do Not Meet Their Initial Burden On Summary Adjudication With Admissible Evidence That Pre-March 25, 2013 Claims Are Barred By The Statute Of Limitations.

Defendants argue the Court should summarily adjudicate "additional pre-March 25, 2013 claims on statute-of-limitations grounds." (Opening Brief, 17.) In particular, Defendants assert that following the Court's August 21, 2024 Order on Defendants' Motion for Summary Adjudication on Statute of Limitations Grounds, "discovery has revealed that additional Local Issuers that were not on the Attorney General's mailing list [for the Attorney General's December 30, 2015 letter] had notice of the lawsuit." (*Id.* at 46 (cleaned up); see also *id.* at 47 [of the eighty additional Local Issuers, twenty-six were not on the Attorney General's mailing list and not subject to the August 21, 2024 Order].) Defendants contend

that these eighty additional Local Issuers had notice because they "requested and were approved to access the Attorney General's website containing the complaint and disclosure statement between January 5, 2015 and December 8, 2015." (*Id.* at 46; see *id.* at 47 ["they were aware of the secure Edelweiss website, actively sought credentials, and were approved for access upon the Attorney General's confirmation that they were named in the complaint"].) Relator argues that Defendants do not support this ground for summary adjudication with admissible evidence. (Opening Brief, 53.) In particular, Relator asserts that Defendants' counsel "fails to demonstrate any personal knowledge of [Defendants' Exhibit 174] and is not competent to testify about it." (*Id.*) Relator contends that Defendants' Exhibit 174 is "[t]he single exhibit upon which Defendants rely" and has no title, date, Bates number, or anything "to indicate that it was actually produced by the Attorney General." (*Id.*) The Court agrees.

The contents of the December 30, 2014 letter (the "Letter") informing Local Issuers of the existence of a complaint and the disclosure statement filed in this action are undisputed. (UMF 76-78.) It is also undisputed that on August 21, 2024, the Court granted in part Defendants' motion for summary adjudication on statute of limitations grounds, ruling that "claims regarding certain VRDOs accruing prior to March 25, 2013 were barred by the CFCA's statute of limitations because the State was aware of and notified certain Local Issuers of Relator's claims through the Letter." (UMF 79.) Other than the Letter and the August 21, 2024 Order, Defendants rely solely on Defendants' Exhibit 174 to support their motion. Relator objects to Defendants' Exhibit 174 and paragraph 175 of the Declaration of Matthew Benedetto on the grounds of lack of personal knowledge, authentication, and foundation. (Relator's Objections, 1-2.)

"Supporting [] affidavits or declarations shall be made by a person on personal knowledge, shall set forth admissible evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated in the affidavits or declaration." (Code Civ. Proc. § 437c(d).)

> Documents obtained in discovery in response to a request for production of documents may be used to support or oppose a motion for summary judgment, but must be presented in admissible form. This means the evidence must be (1) properly identified and authenticated, (2) admissible under the secondary evidence rule, (3) nonhearsay or admissible under some exception to the hearsay rule, and (4) a complete record, not selected portions of the document. Unless the opposing party admits the genuineness of the document, the proponent of the evidence must present declarations or other evidence sufficient to sustain a finding that it is the writing that the

proponent of the evidence claims it is.

(*Serri v. Santa Clara University* (2014) 226 Cal.App.4th 830, 855 (cleaned up).) "The means of authenticating a writing are not limited to those specified in the Evidence Code. For example, a writing can be authenticated by circumstantial evidence and by its contents." (*Hart v. Keenan Properties, Inc.* (2020) 9 Cal.5th 442, 450 (cleaned up).)

Serri is instructive. There, the plaintiff's "only effort to authenticate her exhibits was [counsel's] declaration that the 'exhibits attached hereto are true and correct copies of the originals or excerpts of the originals or copies of documents produced by Defendants in this action or excerpts of the originals of depositions or transcripts of investigations in this case.'" (*Serri*, 226 Cal.App.4th at 855.) That evidence included "more than 20 exhibits that consist of handwritten notes." (*Id.*) The plaintiff stated they were "McDonald's notes. However, none of the handwritten notes are signed and there is no evidence they were written by McDonald." (*Id.*) The court explained that "[t]o authenticate the notes, Serri could have propounded requests for admission asking McDonald to admit their authenticity and to admit that she wrote them. Serri could also have asked McDonald to authenticate the notes when she took McDonald's deposition. There is no evidence in the record that she did either of these things." (*Id.*) The court concluded that "[s]ince Serri did not meet her burden of demonstrating the admissibility of handwritten notes, the trial court did not err in sustaining the objections to them." (*Id.*)

The same conclusion follows here. Matthew Benedetto, counsel for the Bank of America Defendants, declares that "Exhibit 174 is a true and correct copy of a list of people who sought access to the secure website maintained by the California Office of the Attorney General that contained the sealed complaint and disclosure statement in this action." (Benedetto Decl. ¶ 175.) Mr. Benedetto declares that the "document was produced by the California Office of the Attorney General in this litigation and bears the Bates number beginning AG0012561." (*Id.*) However, as Relator correctly notes, Defendants' Exhibit 174 is devoid of a title, date, Bates numbers, or any other identifying information. Thus, there is no evidence to support a finding that the document is what Mr. Benedetto purports it to be. (Compare, e.g., *Hooked Media Group, Inc. v. Apple Inc.* (2020) 55 Cal.App.5th 323, 338 ["The documents here are much different. They are mostly e-mails bearing clear indicia that they are what Apple claims they are. And the documents from third parties were submitted with declarations from custodians of records

explaining their origin. We see nothing that would cast doubt on the authenticity of the evidence to which Hooked objects. As with any other fact, the authenticity of a document can be established by circumstantial evidence. Apple's documents were authenticated both by the attorney's statement that they had been produced in discovery and by their form, which indicates authenticity."].)

On reply, Defendants seek to remedy the issue by submitting emails and a slipsheet for the spreadsheet. (Reply, 28; Negless Reply Decl. ¶¶ 2-4 & Exs. 1-3.) However, "[t]he reply shall not include any new evidentiary matter, additional material facts, or separate statement submitted with the reply and not presented in the moving papers or opposing papers." (Code Civ. Proc. § 437c(b)(4).) In other words, "[w]hile the code provides for reply papers, it makes no allowance for submitting additional evidence or filing a supplemental separate statement. This is consistent with the requirement [that] supporting papers and the separate statement be served with the original motion." (*San Diego Watercrafts, Inc. v. Wells Fargo Bank, N.A.* (2002) 102 Cal.App.4th 308, 313 (cleaned up); accord, *Jay v. Mahaffey* (2013) 218 Cal.App.4th 1522, 1537-1538 ["The general rule of motion practice, which applies here, is that new evidence is not permitted with reply papers. This principle is most prominent in the context of summary judgment motions, which is not surprising, given that it is a common evidentiary motion. The inclusion of additional evidentiary matter with the reply should only be allowed in the exceptional case" (cleaned up)].) In any event, Defendants' reply evidence does not remedy the evidentiary issues as there is no connection between Defendants' Exhibit 174 and the Bates stamped document produced by the Attorney General's Office. (Compare, e.g., Negless Reply Decl. Exs. 1-3 with Defendants' Ex. 174.) Therefore, Relator's objections are sustained. Accordingly, Defendants' motion for summary adjudication in the alternative must be denied as to pre-March 25, 2013 claims.

F. Defendants' Motion For Summary Adjudication Is Denied As To Post-December 31, 2020 Claims.

Defendants argue that the Court should summarily adjudicate "all claims post-dating 2020 because Relator has not even tried to show that those claims are 'false' under its own theory." (Opening Brief, 17; see *id.* at 48.) In particular, Defendants contend that "Relator relies on the opinions and analyses of its expert, Bradley Wendt, as purported evidence that Defendants set inflated VRDO rates and failed to

exercise judgment when resetting rates. But as Wendt admits, his analyses ran from April 2009 through December 2020, an end date he selected at the instruction of counsel." (*Id.* at 48.) Defendants also contend that "Relator's damages expert Dr. S. Ilan Guedj . . . provides no analysis or opinion as to whether Defendants set inflated rates after 2019." (*Id.*) Defendants' separate statement fails to set forth any material facts as to this ground for summary adjudication. Defendants' failure to set forth any material facts precludes summary adjudication. (See *California-American Water Co. v. Marina Coast Water Dist.* (2022) 86 Cal.App.5th 1272, 1296-1297 ["if it is not set forth in the separate statement, *it does not exist* . . . And if the separate statement does not contain all material facts on which the motion is based, the moving party has failed to meet its initial burden of production and is not entitled to summary adjudication as a matter of law"].) Accordingly, Defendants' motion is denied as to post-December 31, 2020 claims.

II. Defendants' Motion For Summary Adjudication In The Alternative As To Piper Jaffray Is Granted In Part.

Defendants' motion for summary judgment or, in the alternative, for summary adjudication is brought by all Defendants, including Piper Jaffray. (See Defendants' Motion, 1-2.) By stipulation and order dated July 24, 2025, Relator and Piper Jaffray agreed that briefing in opposition and reply to Defendants' motion for summary judgment or, in the alternative, summary adjudication would be governed differently as to Piper Jaffray. In particular, Relator and Piper Jaffray agreed that Relator would file a separate opposition to Defendants' motion for summary judgment as to Piper Jaffray. (Jul. 24, 2025 Stipulation and Order, 2.) Similarly, Piper Jaffray would file a stand-alone reply brief in support of Defendants' motion for summary judgment. (*Id.*) For the following reasons, Defendants' motion for summary judgment as to Piper Jaffray is denied. Defendants' motion for summary adjudication in the alternative as to Piper Jaffray is granted in part and denied in part.

A. Piper Jaffray Is Entitled To Summary Adjudication Of Rate-Resetting Notifications.

Defendants argue that Relator's CFCA claims "involving Defendants' rate-reset notifications [fail] for two independent reasons: (a) these alleged 'claims' do not even meet the CFCA's threshold requirement of a 'demand for payment' and are thus not actionable, and (b) they are truthful."

(Defendants' Opening Brief, 17; see *id.* at 2, 18-19; Piper Jaffray ("PJ") Reply, 5.) The Court concludes that the first ground is dispositive. Piper Jaffray submits an exemplar rate-reset notification. (Brody Decl. Ex. 7.) That notification states, "The following rate notification represents the variable demand notes remarketed by Piper Sandler. If you have any questions regarding this rate notification or need to add or update contact information please call . . . or email . . . " (*Id.*) The notification also includes the CUSIP, bond amount, issuer, rate, and applicable time period. (*Id.*) There is no indication on the face of the notification that it is a request or demand for payment. (See *Fassberg Construction Co.*, 152 Cal.App.4th at 739 [finding weekly payroll reports "were not 'claims' because they were not requests or demands for money. Rather, the payroll reports were records required to be submitted under the contract and were records or statements made or used in support of Fassberg's requests for progress payment." (cleaned up)].) Therefore, Piper Jaffray meets its initial burden of production on summary judgment. Relator does not substantively oppose Defendants' motion as to Piper Jaffray on this ground. (See PJ Reply, 6.) Accordingly, Defendants' motion for summary adjudication is granted in favor of Piper Jaffray regarding rate-reset notifications.

B. Piper Jaffray Is Not Entitled To Summary Adjudication Of Remarketing Invoices.

Defendants contend that their remarketing "invoices contained accurate information about the fees due under the Remarketing Agreements and made no representations—let alone false ones—about the manner in which Defendants provided their services or Defendants' compliance with those contracts." (Defendants' Opening Brief, 20; see *id.* at 22-23; see also *id.* at 28.) An implied false certification "can be a basis for liability, at least where two conditions are satisfied: first, the claim does not merely request payment, but also makes specific representations about the goods or services provided; and second, the defendant's failure to disclose noncompliance with material statutory, regulatory, or contractual requirements makes those representations misleading half-truths." (*Escobar*, 579 U.S. at 190 (cleaned up).) For the following reasons, Piper Jaffray does not meet its initial burden on summary adjudication as to either prong of the *Escobar* test.

1. Triable Issues Of Material Fact Preclude Finding That Piper Jaffray's Remarketing Invoices Do Not Include Any Specific Representations.

Piper Jaffray's exemplar remarketing invoices state, "In accordance with the Remarketing Agreement for the above captioned securities, we submit our invoices for remarketing services." (Brody Decl. Exs. 3-6.) As set forth in Section I.B.1, *supra*, the Court finds that Piper Jaffray does not meet its initial burden on summary judgment because the language in Piper Jaffray's remarketing invoices is susceptible to an interpretation that Piper Jaffray was submitting remarketing invoices in compliance with the terms of its Remarketing Agreements, including any contractual obligations related to remarketing services. The interpretation of that language is an issue for the jury.

2. Piper Jaffray Does Not Satisfy The Second Prong Of The *Escobar* Test Regarding Compliance With Contractual Obligations.

Defendants' motion as to the second prong of the *Escobar* test is premised on the sole ground that the exercise of judgment by remarketing agents is subjective, thus, Relator cannot establish falsity where there are no objectively verifiable statements. (Defendants' Opening Brief, 24-25.) As set forth in Section I.B.2, *supra*, the Court concluded this ground lacked merit and denied Defendants' motion. In any event, Defendants' affirmative motion includes a single submission of evidence specific to Piper Jaffray—the Declaration of Joanna Brody. That declaration does not set forth any substantive evidence regarding Piper Jaffray's compliance with its contractual obligations under the Remarketing Agreements. (See Opposition, 3-4.) Nor does the declaration attach any exhibits regarding the same. (See *id.*)

Accordingly, Defendants' motion for summary adjudication of remarketing invoices is denied as to Piper Jaffray.

C. Piper Jaffray Does Not Meet Its Initial Burden Of Production On Summary Adjudication Regarding Scienter.

Defendants assert that "[t]here is zero evidence that any of Defendants' employees believed they were failing to reset rates according to their own judgment, much less that they believed their invoices were 'implicitly' certifying they had used their judgment when in fact they knew they had not." (Defendants' Opening Brief, 32.) The Court disagrees. As set forth in Section I.C., *supra*, Defendants do not set forth any material facts as to knowledge of falsity, which is dispositive of Defendants' motion.

Moreover, even if Defendants had set forth material facts regarding knowledge, Defendants do not set forth any affirmative evidence as to Piper Jaffray.[23] Thus, although Relator does not substantively oppose the motion as to Piper Jaffray's scienter, Piper Jaffray does not meet its initial burden on summary adjudication in the first instance. Accordingly, Defendants' motion for summary adjudication of scienter is denied as to Piper Jaffray.

D. Piper Jaffray Does Not Meet Its Initial Burden Of Production On Summary Adjudication Regarding Conspiracy.

Defendants assert that there is no evidence of a conspiracy. (Defendants' Opening Brief, 2; see *id.* at 17, 33-41; PJ Reply, 5.) Piper Jaffray argues that it "did not manipulate the VRDO market by colluding with other Defendants and other major banks to raise interest rates; Piper Jaffray never colluded with anyone to do anything appropriate." (PJ Reply, 11.) Rather, Piper Jaffray contends that it "relied on market information (including indices that were widely used at the time) to obtain market color." (*Id.*) Piper Jaffray also argues that it "did not illicitly share material non-public information about future interest rate resets." (*Id.*) As a threshold matter, Defendants' affirmative motion for summary judgment or adjudication fails as to Piper Jaffray because it does not include any evidence specific to Piper Jaffray. Similar to the issues of remarketing invoices and scienter, the sole piece of evidence as to Piper Jaffray is the Declaration of Joanna Brody, which merely authenticates exhibits and does not include any specific facts. In any event, as the Court found in Section I.D, *supra*, triable issues of material fact exist regarding whether Defendants, including Piper Jaffray, had a tacit agreement sufficient to constitute a conspiracy. (See, e.g., Chernov Decl. Ex. PJ_PX-41.) Thus, Piper Jaffray is not entitled to summary adjudication of Relator's conspiracy claim.

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[23] In opposition to Relator's motion for summary judgment or, in the alternative, summary adjudication, Piper Jaffray submitted declarations from Joanna Brody and Christopher Dicerbo. However, the stipulation and order entered on July 24, 2025 regarding Relator and Piper Jaffray's briefing does not provide that Piper Jaffray may rely on evidence submitted in opposition to Relator's motion. Neither declaration was submitted as affirmative evidence in support of Defendants' motion for summary judgment or, in the alternative, summary adjudication. Indeed, in its reply brief, Piper Jaffray asserts that "Defendants' Motion established that Relator does not come close to proving any element of its CFCA case, let alone every element." (PJ Reply, 1.)

E. Piper Jaffray Is Not Entitled to Summary Adjudication As To Conduit Bonds, Pre-March 25, 2013 Claims, And Post-December 31, 2020 Claims.

For the reasons set forth in Section I.D. through Section I.F, *supra*, Defendants' motion for summary adjudication as to Piper Jaffray regarding conduit bonds, pre-March 25, 2013 claims, and post-December 31, 2020 claims must be denied.

III. Relator's Motions For Summary Judgment Or, In The Alternative, For Summary Adjudication Are Denied In Their Entirety.

Relator cross-moves for summary judgment against Defendants collectively and separately as to Piper Jaffray. (Motion, 2; Motion as to Piper Jaffray ("PJ"), 2.) For the following reasons, Relator's motions must be denied.

A. Relator's Motions Are Procedurally Defective.

Relator seeks "an order granting summary judgment or, in the alternative, summary adjudication of Relator's claims that Defendants committed violations of the" CFCA. (Motion, 2; see Motion as to PJ, 2 [seeks "an order granting summary judgment or, in the alternative, summary adjudication of Relator's claims that Defendant Piper Jaffray committed violations of the" CFCA].) Relator's motions suffer from significant procedural defects such that Relator's motions must be denied.

1. Relator's Omission Of Its Conspiracy Claim Is Fatal To Its Summary Judgment Motions.

"A party may move for summary judgment in an action or proceeding if it is contended that *the action* has no merit or that there is no defense to *the action or proceeding*." (Code Civ. Proc. § 437c(a)(1) (emphases added).) Here, the action is comprised of Relator's claims under the CFCA for: (1) the submission of false claims for payment in violation of Government Code section 12651(a)(1); (2) knowingly making, using, or causing to be made or used, a false record or statement material to a false or fraudulent claim in violation of Government Code section 12651(a)(2); and (3) conspiring to commit a violation of the CFCA in violation of Government Code section 12651(a)(3). (7AC ¶¶ 315-316, 319.)

Relator's briefing does not set forth any argument regarding conspiracy. (See, e.g., Opening Brief, 19-25 [discussing collusion in the statement of facts], 40-42 [discussing collusion to support the element

of falsity]; Opening Brief as to PJ, 14-20 [discussing collusion in the statement of facts], 34-35 [discussing collusion to support the element of falsity]; Reply, 18-20 [discussing collusion to support the element of falsity].)[24] Indeed, on reply, Relator concedes that "it did not move for summary adjudication on its allegations that Defendants conspired to violate the CFCA under Cal. Gov. Code § 12651(a)(3) – mainly because there are potential questions of fact as to the extent to which one or two of the Defendants participated in the conspiracy, and because it is not necessary to prove conspiracy to establish Defendants' CFCA liability under the single count asserted in the 7AC." (Reply, 18.) However, Relator's operative pleading includes a conspiracy claim under the CFCA. "In addition to its claim that defendants violated the CFCA by submitting false claims, Edelweiss also alleges that defendants conspired to commit a violation of the CFCA by colluding to inflate interest rates on California VRDOs." (*State ex rel. Edelweiss, LLC*, 90 Cal.App.5th at 1144; see, e.g., *id.* at 1146 [Relator "has adequately pleaded its CFCA claims based on the alleged violation of defendants' contractual obligations *and* alleged conspiracy to commit such violation" (emphasis added)]; 7AC ¶¶ 232, 234, 295, 319.) "Where the motion has not addressed all theories in the complaint summary judgment should not [be] entered." (*Hedayati v. Interinsurance Exchange of the Automobile Club* (2021) 67 Cal.App.5th 833, 846 (cleaned up).) As the Court has previously made clear, although Relator pleads a single cause of action for violation of the CFCA in the 7AC, the manner in which a "cause of action" is pled in the complaint is not dispositive. (*Lilienthal & Fowler*, 12 Cal.App.4th at 1854 [summary adjudication proper as to "two separate and distinct causes of action regardless of how pled in the complaint"]; see Mar. 29, 2024 Order on Relator's Procedural Objection to Defendants' MSA on Statute of Limitations Grounds.) To properly move for summary judgment, Relator must that show that "*the action* has no merit or that there is no defense to *the action or proceeding*" (Code Civ. Proc. § 437c(a)(1) (emphases added)), which necessarily includes the conspiracy claim. Thus, Relator's motions for summary judgment must be denied on the ground that Relator did not move on all claims in its operative pleading.

Moreover, Relator's motion against all Defendants is accompanied by an eighty-eight-page

[24] Belatedly, on reply to Relator's motion for summary judgment as to Piper Jaffray, Relator presents argument on conspiracy. (Reply as to PJ, 4-5.) "[P]oints raised in the reply brief for the first time will not be considered." (*Tellez v. Rich Voss Trucking, Inc.* (2015) 240 Cal.App.4th 1052, 1066 (cleaned up).)

separate statement purporting to set forth 330 undisputed material facts. Relator's motion against Piper Jaffray is accompanied by a 117-page separate statement purporting to set forth 389 undisputed material facts. Oddly, Relator asserts, without explanation, that "not each of these facts must be found to be undisputed for the Court to grant Relator's Motion for Summary Judgment." (Relator's SUF, 1; Relator's SUF as to PJ, 1.)[25] Relator's understanding of the legal standard governing summary judgment is mistaken. A "motion for summary judgment shall be granted [only] if all the papers submitted show that there is *no triable issue as to any material fact* and that the moving party is entitled to judgment as a matter of law." (Code Civ. Proc. § 437c(c) (emphasis added); see, e.g., *Insalaco v. Hope Lutheran Church of West Contra Costa County* (2020) 49 Cal.App.5th 506, 521-522 [moving party's contention that purportedly undisputed facts included in its separate statement were actually "not material" defeated summary judgment: "the moving party should include only those facts which are *truly material* to the claims or defenses involved because the separate statement effectively *concedes* the materiality of whatever facts are included. Thus, if a triable issue is raised as to any of the facts in your separate statement, the motion must be denied!" (cleaned up)].)

Accordingly, Relator's motions for summary judgment are denied.

2. Relator's Alternative Motions For Summary Adjudication Are Procedurally Improper.

"A motion for summary adjudication shall be granted only if it completely disposes of a cause of action, an affirmative defense, a claim for damages, or an issue of duty." (Code Civ. Proc. § 437c(f)(1).) "If summary adjudication is sought, whether separately or as an alternative to the motion for summary judgment, the specific cause of action, affirmative defense, claims for damages, or issues of duty must be stated specifically in the notice of motion and be repeated, verbatim, in the separate statement of undisputed material facts." (Cal. Rules of Court, rule 3.1350(b); see Code Civ. Proc. § 1010 [notice of motion must state the grounds upon which it will be made]; *Schmidlin v. City of Palo Alto* (2007) 157 Cal.App.4th 728, 743-744 ["A motion for summary adjudication tenders only those issues or causes of

[25] "Relator's SUF" refers to Relator's Separate Statement of Material Facts in Support of Relator's Motion for Summary Judgment, or in the Alternative, Summary Adjudication filed June 13, 2025. "Relator's SUF as to PJ" refers to Relator's Separate Statement of Material Facts in Support of Relator's Motion for Summary Judgment, or in the Alternative, for Summary Adjudication filed September 16, 2025.

action specified in the notice of motion, and may only be granted as to the matters thus specified." (cleaned up)]; *Gonzales v. Superior Court* (1987) 189 Cal.App.3d 1542, 1545 ["It is elemental that a notice of motion must state in writing the grounds upon which it will be made. Only the grounds specified in the notice of motion may be considered by the trial court." (cleaned up)]; see also Cal. Rules of Court, rule 3.1110(a) [notice of motion must state the nature of the order being sought and the grounds for issuance of the order].)

Here, Relator fails to comply with California Rules of Court, rule 3.1350(b). First, in its notice of motion, Relator states that it seeks "an order granting summary judgment or, in the alternative, summary adjudication of Relator's claims that Defendants committed violations of the" CFCA. (Motion, 2; see Motion as to PJ, 2 [seeking "an order granting summary judgment or, in the alternative, summary adjudication of Relator's claims that Defendant Piper Jaffray committed violations of the" CFCA].) But Relator does not specify the claims or causes of action for which it seeks summary adjudication. Although Relator states throughout its briefing that it seeks summary adjudication in the alternative, it again never specifies the specific claims or causes of action to be summarily adjudicated.[26] Second, as a result of Relator's failure to specify the "cause of action, affirmative defense, claims for damages, or issues of duty" in its notice of motion, Relator's separate statements of material facts also do not comply with California Rules of Court, rule 3.1350(b). (Cal. Rules of Court, rule 3.1350(b) ["the specific cause of action, affirmative defense, claims for damages, or issues of duty must be stated specifically in the

[26] See, e.g., Opening Brief, 4 ["In the alternative, it is entitled to summary adjudication as to specific claims."], 28 fn. 16 ["even if the Court were to find that Relator were not entitled to summary judgment because there were material factual disputes regarding *some* of the false claims, Plaintiffs would still be entitled to summary adjudication on all the causes of action for which Relator proved each CFCA element by undisputed evidence" (emphasis in original)], 48 [same]; Opening Brief as to PJ, 4 ["In the alternative, it is entitled to summary adjudication as to specific claims."], 23 fn. 20 ["even if the Court were to find that Relator were not entitled to summary judgment . . . Plaintiffs would still be entitled to summary adjudication on all the causes of action for which Relator proved each CFCA element by undisputed evidence"], 41-42 ["if the Court were to find that Relator is not entitled to summary judgment . . . the Court should grant Relator summary adjudication on all causes of action for which Relator proved each CFCA element by undisputed evidence"]; Reply, 2 ["In the alternative, [Relator] is entitled to summary adjudication as to specific claim submissions."], 9 fn. 3 ["Alternatively, summary adjudication for Relator could be granted under Cal. Code Civ. Proc. § 437c(f)(1), because proof of all the elements of a CFCA violation completely disposes of that cause of action."], 30 ["In the alternative, if the Court were to find that Relator is not entitled to summary judgment because there are material factual disputes regarding *some* of the false claims at issue, the Court should grant Plaintiffs summary adjudication on all claims and causes of action for which Relator proved each CFCA element by undisputed evidence."]; Reply as to PJ, 10 [same].

notice of motion *and* be repeated, verbatim, in the separate statement of undisputed material facts" (emphasis added)].)

"The court's power to deny summary judgment on the basis of failure to comply with California Rules of Court, rule 3.1350(b) is discretionary, not mandatory." (*Holt v. Brock* (2022) 85 Cal.App.5th 611, 619 (cleaned up).) Here, the exercise of the Court's discretion is warranted. Although Relator "nominally pleads a single cause of action, [it] in fact alleges multiple separate and distinct wrongful acts comprising thousands of false claims over a period of multiple years." (Mar. 29, 2024 Order, 7.) In particular, Relator asserts claims under the CFCA for: (1) the submission of false claims for payment in violation of Government Code section 12651(a)(1); (2) knowingly making, using, or causing to be made or used, a false record or statement material to a false or fraudulent claim in violation of Government Code section 12651(a)(2); and (3) conspiring to commit a violation of the CFCA in violation of Government Code section 12651(a)(3). (7AC ¶¶ 315-316, 319.) Relator contends that this action involves "over 63,000 materially false claims to the State." (Opening Brief, 3; see Opening Brief as to PJ, 4 ["Piper Jaffray knowingly submitted or caused to be submitted over 1,600 materially false claims to the State"].) "As the plain language of the CFCA makes clear, the submission of each individual false claim gives rise to a separate violation of the Act." (Mar. 29, 2024 Order, 7.) Given the breadth and complexity of the claims at issue, the burden on the Court on the present record to guess, without guidance from Relator, which of these claims could be summarily adjudicated and on what grounds, would be overwhelming. Therefore, in light of the significant procedural defects here, the Court exercises its discretion to deny Relator's alternative motions for summary adjudication. (See also *Hedayati*, 67 Cal.App.5th at 846 ["When a summary judgment motion did not negate theories of defendant's liability, the trial court should have held that [the moving party] failed to carry its initial burden and stopped there. When, as here, the [moving party] did not move in the alternative for summary adjudication of specified issues, we will not address whether it may have prevailed on some issues in this case." (cleaned up)].)

B. Relator's Motions Improperly Address Matters Outside The Scope Of The Pleadings.

"The complaint limits the issues to be addressed at the motion for summary judgment." (*Agustin*, 116 Cal.App.5th at 442 (cleaned up).) Here, Relator premises part of its motions for summary judgment

on matters that are outside the scope of the pleadings. In particular, Relator continues to assert a theory of factual falsity and a CFCA claim based on Defendants' purported "best efforts" remarketing obligation. (See Opening Brief, 1-2, 5-6, 15-16, 31-34, 42-43; Opening Brief as to PJ, 1-2, 5-6, 10-12, 36; Reply, 1, 5, 13-15; Reply as to PJ, 3-4, 8-9.) First, Relator advances the same arguments regarding factual falsity in support of its motions as it did in opposition to Defendants' motion for summary judgment. (Compare Opening Brief, 32; Opening Brief as to PJ, 27; Reply, 10-13 with Opposition, 8-9.) As set forth in Section I.A.2.i, *supra*, Relator is precluded from asserting a theory of factual falsity under the law of the case doctrine. Second, as set forth in Section I.B.3, *supra*, Relator is also precluded from pursuing a CFCA claim based on Defendants' purported remarketing obligation because Relator abandoned its claim after the Court (Massullo, J.) sustained Defendants' demurrer to the 7AC without leave to amend and Relator did not raise the issue on appeal.

C. Fact Issues Regarding Damages Preclude Summary Judgment Or Adjudication.

Defendants object to Relator's motion, arguing that it is procedurally defective "because it will not 'completely dispose of a cause of action'" where, "[a]t a minimum, there are disputes of fact regarding the amount of Relator's damages that cannot be resolved on summary judgment." (Opposition, 1; PJ Opposition, 1-2; see Opposition, 7, 9; PJ Opposition, 11-14.) Relator asserts that the elements of a CFCA claim are claim submission, falsity, scienter, and materiality. (Opening Brief, 26 & fn. 13; Opening Brief as to PJ, 21 & fn. 17.) Relator contends that "damages and penalties are not elements of a CFCA cause of action, but remedies for liability." (Opening Brief, 27; Opening Brief as to PJ, 22.) Relator also argues that, in any event, it "proves damages and penalties by presenting evidence of (i) the amount of fees paid or caused to be paid by the State to Defendants as the result of Defendants' false claims on the VRDOs At-Issue, both in remarketing fees and in liquidity fees, (ii) the amount of inflated interest the State was caused to pay bondholders on the VRDOs At-Issue as a result of Defendants' false claims, and (iii) the number of false claims Defendants submitted, as to each of which the State is entitled to a civil penalty under the CFCA." (Opening Brief, 27; see Opening Brief as to PJ, 21-22 ["(i) the amount of remarketing fees paid or caused to be paid by the State to Piper Jaffray as a result of Piper Jaffray's false claims on the VRDOs At-Issue, (ii) the amount of inflated interest the State caused to pay to bondholders on the

VRDOs At-Issue as a result of Piper Jaffray's false claims, and (iii) the number of false claims Piper Jaffray submitted, as to each of which the State is entitled to a civil penalty under the CFCA."]; see also Reply, 2 ["there is no genuine dispute as to the amount of damages and penalties to which the State is entitled. The State should recoup treble damages and civil penalties based on the record before the Court."].)[27] The Court agrees with Defendants.

Under the CFCA,

> Any person who commits any of the following enumerated acts in the subdivision shall have violated this article and shall be liable to the state or to the political subdivision for three times the amount of damages that the state or political subdivision sustains because of the act of that person. A person who commits any of the following enumerated acts shall *also* be liable to the state or to the political subdivision for the costs of a civil action brought to recover any of those penalties or damages, and shall be liable to the state or political subdivision for a civil penalty of not less than five thousand five hundred dollars ($5,500) and not more than eleven thousand dollars ($11,000) for each violation, as adjusted by the Federal Civil Penalties Inflation Adjustment Act of 1990, Public Law 101-410 Section 5, 104 Stat. 891, note following 28 U.S.C. Section 2461.

(Gov. Code § 12651(a) (emphasis added).) "Thus, the act provides for both treble damages for certain acts and a civil penalty for each 'false claim.'" (*Fassberg Construction Co.*, 152 Cal.App.4th at 735; see also *Stone v. Alameda Health System* (2024) 16 Cal.5th 1040, 1052 ["We examine the language in the context of the entire statutory framework to discern its scope and purpose and to harmonize the various parts of the enactment. If the language is clear, its plain meaning controls." (cleaned up)].) "Those 'acts' include knowingly presenting 'a false claim' and knowingly presenting 'a false record or statement to get a false claim paid or approved.'" (*Fassberg Construction Co.*, 152 Cal.App.4th at 736.)

"In any action brought under [Government Code] Section 12652, the state, the political subdivision, or the qui tam plaintiff shall be required to prove all essential elements of the cause of action, *including damages*, by a preponderance of the evidence." (Gov. Code § 12654(c) (emphasis added); see 31 U.S.C. § 3731(d) [same]; *United States ex rel. Morsell v. NortonLifeLock, Inc.* (D.D.C. 2023) 651 F.Supp.3d 95, 114 [to prevail on a FCA claim, a relator must prove all essential elements of an FCA claim, including damages, by a preponderance of the evidence].) Therefore, damages are an element of a CFCA claim.[28]

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[27] On July 1, 2025, the Court granted Defendants' motion for summary adjudication on claims for liquidity fees. Thus, Relator is precluded from recovering any damages associated with liquidity fees.

[28] Relator misplaces its reliance on CACI No. 4800 to support its argument that damages are not an

This conclusion is supported by *Contreras I.* There, the defendant contended that the plaintiffs did not allege sufficient facts showing causation for their CFCA claim. (*Contreras I*, 182 Cal.App.4th at 457.) The court held that "the causation requirement only applies to plaintiffs' claims for damages, not to plaintiffs' claim that Laidlaw is liable for statutory penalties under the CFCA." (*Id.*)[29] The court reasoned that under Government Code "section 12651, subdivision (a), a person who presents a false claim is liable for three times the amount of damages that the state or political subdivision sustains because of the act of that person. Such a person is also liable for penalties, but *the penalty provision does not require showing that the violation caused damages to the public entity.*" (*Id.* (cleaned up and emphasis added).) The court concluded that the plaintiffs "adequately alleged that the District suffered damages because of Laidlaw's implied false certifications. The Complaint expressly so alleges, and the allegations regarding the liquidated damages provision demonstrate one specific way in which the District was damaged by the alleged falsities. That is, if the alleged contractual violations had been disclosed, the District would have been entitled to liquidated damages for at least some of the alleged instances of noncompliance." (*Id.* (cleaned up).)

Thus, damages and penalties are distinct under the CFCA. A relator may obtain treble damages if the CFCA violation caused damages to the public entity. (*Id.*) However, to obtain civil penalties, the relator need not show that the CFCA violation caused damages to the public entity. (*Id.*)

Here, however, Relator seeks "treble damages *and* penalties under Cal. Gov. Code § 12650 *et seq.*" (7AC ¶ 314 & p. 114 [Prayer for Relief]; see Reply, 9 ["One category of damages Plaintiff seeks here is remarketing fees . . . Another category of damages is inflated interest payments"].) "A plaintiff or cross-complainant has met his or her burden of showing that there is no defense to a cause of action if that party *has proved each element of the cause of action* entitling the party to judgment on the cause of action. Once the plaintiff or cross-complainant has met that burden, the burden shifts to the defendant or

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element of a CFCA claim. (See Opening Brief, 26 fn. 13; Opening Brief as to PJ, 21 fn. 17; Reply, 8.) "Pattern jury instructions, while designed to accurately reflect the law, are not the law itself." (*Petitpas v. Ford Motor Co.* (2017) 13 Cal.App.5th 261, 299 (cleaned up); see also Cal. Rules of Court, rule 2.1050(b) ["The articulation and interpretation of California law, [] remains within the purview of the Legislature and the courts of review."].)

[29] Relator misstates this holding of *Contreras I*, asserting that the court held "the CFCA does not require a showing that the violation caused damages to the public entity." (Reply, 6 (cleaned up).)

cross-defendant to show that a triable issue of one or more material facts exists as to the cause of action or a defense thereto." (Code Civ. Proc. § 437c(p)(1) (emphasis added); see *Paramount Petroleum Corp. v. Superior Court* (2014) 227 Cal.App.4th 226, 241 ["the plaintiff's burden of proof on [] a motion [for summary adjudication] is defined by subdivision (p)(1) of Code of Civil Procedure, section 437c"].) Because Relator seeks damages, Relator's failure to assert and show undisputed facts establishing damages in an amount certain is fatal to its motion. (See, e.g., *Department of Industrial Relations v. UI Video Stores, Inc.* (1997) 55 Cal.App.4th 1084, 1097 ["Code of Civil Procedure section 437c makes no provision for a partial summary judgment as to liability. Even summary adjudication may be granted only in limited instances. (Code Civ. Proc., § 437c, subd. (f)(1).) Because issues of the calculation of damages apparently remain to be determined, it is not appropriate to grant summary judgment for appellant at this time. A decision on the issue of liability against the party on whom liability is sought to be imposed does not result in a judgment until the issue of damages is resolved." (cleaned up)]; *Paramount Petroleum Corp.*, 227 Cal.App.4th at 241 ["May a plaintiff seek summary adjudication of liability only, leaving the resolution of damages to a later trial? The statutory language mandates the question be answered in the negative. A plaintiff can only obtain summary adjudication of a cause of action only by proving each element of the cause of action entitling the party to judgment on that cause of action . . . damages are an element of a breach of contract cause of action" (cleaned up)]; *CDF Firefighters v. Maldonado* (2008) 158 Cal.App.4th 1226, 1239 [agreeing with defendants that the plaintiff "was not entitled to summary judgment because it did not establish its prima facie case on the issue of damages."]; *Pajaro Valley Water Management Agency v. McGrath* (2005) 128 Cal.App.4th 1093, 1106 ["The [plaintiff's] damages were, of course, an element of its cause of action. As a result, the [plaintiff] could not establish a prima facie entitlement to summary judgment without showing both the fact *and the amount* of damages." (cleaned up)].)

Although Relator argues that the amount of damages is undisputed and is established by Dr. Guedj's damages opinions (Relator's SUF 330; Relator's SUF as to PJ 330), it does not mention the Court's subsequent *Sargon* ruling on those opinions, which the Court found utilized an impermissible measure of damages. In particular, the Court ruled that Dr. Guedj's calculation of estimated damages

associated with remarketing fees at $127 million "is a restitutionary measure of damages that is not recoverable under the CFCA." (Nov. 3, 2025 Order, 39.) Indeed, the Court granted Defendants' "motion to preclude Guedj from offering any opinion or testimony that Relator is entitled to recover the full amount of RMA fees paid to Defendants as damages." (*Id.* at 44.)[30] Moreover, Relator fails to mention this Court's ruling that the parties' competing expert opinions on the propriety of a gross damages approach may be presented to the trier of fact at trial. (*Id.* at 46-47; see also *id.* at 47 [quoting Relator as contending that "this argument is a battle of the experts that must wait for the jury at trial."].)[31] Put simply, the Court has already found that there are disputed issues of fact bearing on the amount of damages Relator could seek, even if it succeeds in establishing liability.

Accordingly, Relator's motions must be denied.

D. Triable Issues Of Material Fact Permeate Relator's CFCA Claims, Thus Precluding Summary Judgment Or Adjudication.

Relator's motions are ambitious, to say the least, in light of the numerous triable issues of fact raised by the voluminous record and the disputed percipient and expert testimony. (See Section I, *supra*; see also Jul. 17, 2025 Stipulation and Order Regarding Supporting Documents for Summary Judgment Filings, 2 [parties rely upon the same evidentiary record in support of their respective affirmative motions for summary judgment and in opposition to the respective motions for summary judgment].) However, the Court need not address those issues in detail because Relator's motions suffer from procedural decencies that cause them to fail at the threshold.

Accordingly, Relator's motions are denied in their entirety.

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[30] Relator states that "[t]he number of liquidity fee claims set forth in figures 6 and 7 of Dr. Guedj's Rebuttal report can easily be subtracted from the civil penalties count, should that be necessary." (Reply, 10 fn. 6.) However, it does not appear that Relator made any attempt to recalculate its alleged remarketing damages in accordance with the Court's ruling.

[31] See also, e.g., *U.S. ex rel. Laymon v. Bombardier Transp. (Holdings) USA, Inc.* (W.D. Pa. 2009) 656 F.Supp.2d 540, 547 [the jury's role in an FCA case is to "determine the number of violations and fix the amount of actual damages suffered by the United States, if any."]; *U.S. ex rel. Wilson v. Maxxam, Inc.* (N.D. Cal. 2009) 2009 WL 691224, *8 ["The issues of damages is one for the jury. And, in any event, because Defendants would be subject to civil penalties even if the jury finds that the United States was not damaged by Defendants' fraud, Defendants' success on this issue would not obviate the need for a trial."].)

IT IS SO ORDERED.

Dated: March 3, 2026

Ethan P. Schulman
Judge of the Superior Court

CERTIFICATE OF ELECTRONIC SERVICE
(CCP 1010.6 & CRC 2.251)

I, Felicia Green, a Deputy Clerk of the Superior Court of the County of San Francisco, certify that I am not a party to the within action.

On March 3, 2026, I electronically served ORDER ON THE PARTIES' MOTIONS FOR SUMMARY JUDGMENT OR, IN THE ALTERNATIVE, SUMMARY ADJUDICATION via File & ServeXpress on the recipients designated on the Transaction Receipt located on the File & ServeXpress website.

Dated: MAR 0 3 2026

Brandon E. Riley, Court Executive Officer

By: Felicia Green
Felicia Green, Deputy Clerk