

Dept. 23

John Freeland
JUDGE

TIMMINS, LACEY vs
CLEARCAPITALCOM INC

STANISLAUS COUNTY
SUPERIOR COURT
STATE OF
CALIFORNIA

5/19/2025

Misc. Court Order

Nicole Nelson
Clerk

Case No. CV-24-008809

RULING ON DEMURRERS

Defendant Rocket Mortgage LLC's Demurrer to the Complaint; Defendant Clearcapital.com Inc's Demurrer to Plaintiff's Complaint; and Defendant Core Valuation Management Inc's Demurrer to Plaintiff's Complaint came on regularly for hearing on May 13, 2025. The matters were argued and submitted. The Court took the matters under submission and now issues its Ruling.

a) Defendant Rocket Mortgage LLC's Demurrer to the Complaint – OVERRULED, in part; SUSTAINED, in part, without leave to amend; SUSTAINED, in part, with leave to amend; b) Defendant Clearcapital.com Inc's Demurrer to Plaintiff's Complaint – OVERRULED, in part; SUSTAINED, in part, without leave to amend; c) Defendant Core Valuation Management Inc's Demurrer to Plaintiff's Complaint – OVERRULED, in part; SUSTAINED, in part, without leave to amend.

a) The Court finds the allegations of the Complaint sufficient to support the 3rd and 4th Causes of Action, for Violation of the UCL – Unfair Business Practices and Violation of the UCL - Fraudulent Business Practices, respectively. Therefore, the demurrer is OVERRULED as to claims.

With regard to the 1st Cause of Action for Violation of the CLRA, the Court finds the CLRA inapplicable to the facts as alleged in this action. (See, e.g. *McKell v. Washington Mutual, Inc.* (2006) 142 Cal.App.4th 1457.) As California law seems to preclude the assertion of a CLRA claim in this context, the Court is persuaded that Plaintiff is unable to amend her allegations to state a viable claim herein. Therefore, leave to amend is DENIED with regard to this cause of action.

Additionally, assuming arguendo that the allegations fall within the scope of the CLRA, the Court nevertheless finds the pleading deficient with regard to the required pre-lawsuit notice. Further, the pleading fails to allege facts establishing the materiality of the misrepresented or omitted information regarding the nature of the appraisal fees and Plaintiff's reliance thereon, i.e. that she would not have acted as she did without the misrepresentation or the omission of fact. (See, e.g. *Torres v. Adventist Health System/West* (2022) 77 Cal.App.5th 500, 513.)

MINUTE ORDER

With regard to the 2nd Cause of Action for Violation of the UCL – Unlawful Business Practices, the Court notes that the pleading relies on the alleged violations of the CLRA as the basis for this claim. In view of the Court’s conclusion that the CLRA is inapplicable to the facts alleged herein, it does not provide a sufficient basis for the asserted UCL claim. Further, to the extent that the pleading relies on the concepts of agency and/or vicarious liability to allege the moving defendant’s liability for the actions of the co-defendants, the Court finds that the alleged facts are insufficient to support such theories herein. The Court will grant Plaintiff leave to amend with regard to this cause of action.

Lastly, with regard to the 5th Cause of Action for Unjust Enrichment, the Court finds the allegations insufficient to support this claim against the moving defendant. Moreover, the Court notes the absence of opposition on this issue, which the Court treats as a concession that Plaintiff cannot state a viable claim against the moving defendant. Therefore, leave to amend is DENIED as to this cause of action.

Plaintiff shall submit her amended pleading (with regard to the 2nd Cause of Action) within 20 days.

b-c) The Court finds the allegations of the Complaint sufficient to support the 2nd, 3rd, 4th, and 5th Causes of Action, for Violation of the UCL – Unlawful Business Practices, Violation of the UCL – Unfair Business Practices, Violation of the UCL -Fraudulent Business Practices, and Unjust Enrichment, respectively. Therefore, the demurrer is OVERRULED as to claims.

With regard to the 1st Cause of Action for Violation of the CLRA, the Court finds the CLRA inapplicable to the facts as alleged in this action. (See, e.g. *McKell v. Washington Mutual, Inc.* (2006) 142 Cal.App.4th 1457.) As California law seems to preclude the assertion of a CLRA claim in this context, the Court is persuaded that Plaintiff is unable to amend her allegations to state a viable claim herein. Therefore, leave to amend is DENIED with regard to this cause of action.

IT IS SO ORDERED.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF STANISLAUS 801 10 th Street, 4 th Floor Modesto, CA 95355	
TIMMINS, LACEY vs CLEARCAPITALCOM INC	Case #: CV-24-008809
CLERK'S CERTIFICATE OF MAILING SERVICE	

I certify that I am over the age of 18, employed by the Superior Court of the State of California, County of Stanislaus, and not a party to this action. I certify that I served a copy of the attached **RULING ON** by mail service as indicated below.

Recipients Served by Mail

A copy of the item(s) identified above were placed in an envelope addressed to the recipient(s) listed below. Said envelope was then sealed and postage thereon fully prepaid and thereafter was, on **May 19, 2025** deposited in the United States mail at **Modesto, California**.

MICHAEL MERRIMAN HILGERS GRABEN PLLC 655 WEST BROADWAY, SUITE 900 SAN DIEGO, CA, 92101	MICHAEL PFEIFER WEINER BRODSKY KIDER PC 300 SPECTRUM CENTER DRIVE, SUITE 400 IRVINE, CA, 92618
BROOKS BROWN GOODWIN PROCTER LLP 100 NORTHERN AVE. BOSTON, MA, 02210	DAVID CHUTE WOLFE & WYMAN LLP 2212 DUPONT DR. IRVINE, CA, 92612
LAUREN LAVARE GOODWIN PROCTER LLP 525 MARKET STREET, 32ND FLOOR SAN FRANCISCO, CA, 94105	TIMOTHY OFAK WEINER BRODSKY KIDER PC 1300 19TH STREET, NW 5TH FLOOR WASHINGTON DC, WA, 20036

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on **May 19, 2025**, at Modesto, California.

By Nicole Nelson

Nicole Nelson, Deputy Clerk
SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF STANISLAUS