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8	ATTORNEYS FOR PLAINTIFFS WEICHIA	O KU and PI-LIEN KUO	
10	SUPERIOR COURT OF CALIF	FORNIA, COUNTY OF SANTA CLARA	
11		ED JURISDICTION	
12			
13	WEICHIAO KU and PI-LIEN KUO,	) Case No. 21CV376210	
14	Plaintiffs,	) PLAINTIFFS' RESPONSE TO	
15	v.	DEFENDANT'S SEPARATE STATEMENT OF UNDISPUTED	
16	HARALD HERCHEN, et al.	MATERIAL FACTS AND EVIDENCE IN SUPPORT OF	
17	Defendants.	MOTION FOR SUMMARY JUDGMENT, OR IN THE ALTERNATIVE,	
18	Defendants.	SUMMARYADJUDICATION	
19		)	
20		Dept.: 20 Judge: Hon. Socrates Manoukian	
21		Hearing Date: December 8, 2022	
22		Hearing Time: 9:00 a.m.	
23			
24			
25	Plaintiffs Weichiao Ku and Pi Lien Kuo (hereinafter "Plaintiffs") hereby submit the following		
26	Response to Defendant's Separate Statement of Undisputed Material Facts and Supporting Evidence		
27	in support of his Motion for Summary Judgment, or in the Alternative, Summary Adjudication		
28	pursuant to California Rule of Court 3.1350,	as amended January 1, 2016. As to any fact to which	
	i de la companya de		

Plaintiffs assert "Undisputed," such response is not to be taken as an admission for any purpose in

this case, nor is such to be utilized against Plaintiffs as a judicial admission pursuant to principles of judicial estoppel. Wright v. Stang Mfg. Co. (1997) 54 Cal.App.4th 1218, 1224, 1227. "Undisputed" response is posed only for purposes of opposing this Motion filed by Defendant.

	Supporting Statement:	Opposing Party's Response and
	ing Party's Undisputed Material	Supporting Evidence:
	acts and Supporting Evidence: On or about January 12, 2021, Plaintiff GEORGE KU, the brother of ALICE KU, filed an unverified Complaint for Wrongful Death, Negligence and False Personation against Defendant HARALD HERCHEN. Attached to GEORGE KU's unverified Complaint was a purported assignment, wherein WEICHIAO KU and PI-LIEN KUO, the parents of ALICE KU, attempted to assign their rights for a wrongful death	Undisputed.
	action to GEORGE KU.  GEORGE KU's unverified Complaint for Wrongful Death, Negligence and False Personation against Defendant HARALD HERCHEN is attached to the Declaration of Louis F. Doyle as <b>Exhibit A</b> .	
2.	Plaintiffs WEICHIAO KU and PI-LIEN KUO filed an unverified First Amended Complaint for Wrongful Death, Negligence and False Personation against Defendant on June 8, 2021.  Plaintiffs WEICHIAO KU and PI-LIEN KUO's First Amended Complaint is attached to the Declaration of Louis F. Doyle as <b>Exhibit B</b> .	Undisputed.
3.	Plaintiffs WEICHIAO KU and PI-LIEN KUO's First Amended Complaint asserts three causes of action against this Defendant, specifically Wrongful Death, Negligence and False Personation with respect to the	Undisputed.

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1	disappearance of ALICE KU, who is Plaintiffs' daughter and Defendant's	
2	spouse.	
3	Plaintiffs WEICHIAO KU and PI-LIEN KUO's First Amended Complaint is	
5	attached to the Declaration of Louis F. Doyle as Exhibit B.	
6 7	4. On October 6, 2021, Defendant HARALD HERCHEN filed an Answer	Undisputed.
8	to Plaintiffs' First Amended Complaint, denying Plaintiffs' claims.	
9	Defendant HARALD HERCHEN Answer to Plaintiff's First Amended	
10	Complaint is attached to the	
11   12	Declaration of Louis F. Doyle as <b>Exhibit C</b> .	
13	5. Harald Herchen and Alice Ku were	TT 11 . 1
14	married on October 6, 2017 (Declaration of Harald Herchen ("Herchen Decl."), ¶ 4.)	Undisputed.
15	(TICICIENT Deci. ), ¶ 4.)	
16	The Declaration of Harald Herchen is filed concurrently with this Separate	
17	Statement Undisputed Facts and Supporting Evidence.	
18	Supporting Dvidence.	
19	6. Harald Herchen and Alice Ku were happily married, and Harald loves	Undisputed that Alice and Harald were
20   21	Alice. (Herchen Decl., ¶¶ 4, 6.)	married.
22		Disputed as to Defendant's self-serving
23		characterization that their marriage was happy; Disputed as to Defendant's self-
24		serving characterization that he loved Alice.  Defendant made no efforts to locate his
25		missing wife and brazenly lied to his family, Alice's family, and others about his non-
26		efforts and other matters. He destroyed
27		Alice's computers and electronic devices before Plaintiffs' could examine them.
28		<b>Proof:</b> Excepts from the Deposition of Harald Herchen, attached to the Declaration

1		of Todd K. Davis at ¶ 4-5, Exhibit A, B;
2		Declaration of George Ku, ¶ 4-18.)
3		Objection: (1) Lacks foundation [Evid. Code
4		§702], this is not a material fact supported by admissible evidence but rather Defendant's
5		own self-serving conclusion; (2) Lacks
6		Foundation/Inadmissible Opinion/Conclusion: The credibility and
7		admissibility of Defendant's testimony is in
8		question given he is an admitted perjurer.  [The trier of fact may disregard all of the
		testimony of a party if it determines that he
9		testified falsely as to some matters covered by his testimony (Evid. Code §780; CACI
10		5003; Nelson v. Black (1954) 43 Cal.2d 612;
11		People v. Lavergne (1971), 4 Cal. 3d 735).]
12		
13	7. On or about November 11, 2021, Defendant HARALD HERCHEN	Undisputed.
14	propounded Form Interrogatories, Set	Ondisputed.
15	One, to Plaintiff WEICHIAO KU.	
16	Defendant HARALD HERCHEN's Form Interrogatories, Set One, to	
17	Plaintiff WEICHIAO KU are attached	
18	to the Declaration of Louis F. Doyle as <b>Exhibit D</b> .	
19	8. On or about February 2, 2022, Plaintiff	
20	WEICHIAO KU propounded Amended	Undisputed.
21	Responses to Form Interrogatories, Set One; a verification to those responses	
	was signed by GEORGE KU, who is	
22	not a party to this action; a verification to those responses signed by	
23	WEICHIAO KU on February 9, 2022,	
24	was forwarded by Plaintiffs' counsel to defense counsel.	
25	Plaintiff WEICHIAO KU's Amended	
26	Responses to Form Interrogatories, Set	
27	One, and Verifications thereto are collectively attached to the Declaration	
28	of Louis F. Doyle as <b>Exhibit E</b> .	

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9. On or about February 9, 2022, Defendant HARALD HERCHEN propounded Form Interrogatories, Set	Undisputed.
Defendant HARALD HERCHEN's	
Plaintiff PI - LIEN KUO are attached to	
Exhibit F.	
PI - LIEN KUO propounded Responses	Undisputed.
verification to those responses signed by Plaintiff PI - LIEN KUO on March	
21, 2022 was subsequently forwarded by Plaintiffs' counsel to defense	
counsel.  Plaintiff PI - LIEN KUO's Responses	
to Form Interrogatories, Set Three, and her Verification thereto are collectively	
attached to the Declaration of Louis F. Doyle as <b>Exhibit G</b> .	
11. The Form Interrogatories	
include "the circumstances and events	Undisputed.
injury, or other occurrence or breach of	
proceeding." Form Interrogatories, Section 1(a).	
The Form Interrogatories to both	
Declaration of Louis F. Doyle as	
-	
12. In WEICHIAO KU's Amended Response to the Form	Undisputed.
LIEN KUO Responses to the Form	
Interrogatories, Set Three, both Plaintiffs admit they know of no witnesses to the incident other than	
	Defendant HARALD HERCHEN propounded Form Interrogatories, Set Three, to Plaintiff PI - LIEN KUO.  Defendant HARALD HERCHEN's Form Interrogatories, Set Three, to Plaintiff PI - LIEN KUO are attached to the Declaration of Louis F. Doyle as Exhibit F.  10. On or about March 15, 2022, Plaintiff PI - LIEN KUO propounded Responses to Form Interrogatories, Set Three; a verification to those responses signed by Plaintiff PI - LIEN KUO on March 21, 2022 was subsequently forwarded by Plaintiffs' counsel to defense counsel.  Plaintiff PI - LIEN KUO's Responses to Form Interrogatories, Set Three, and her Verification thereto are collectively attached to the Declaration of Louis F. Doyle as Exhibit G.  11. The Form Interrogatories comprehensively define "incident" to include "the circumstances and events surrounding the alleged accident, injury, or other occurrence or breach of contract giving rise to this action or proceeding." Form Interrogatories, Section 1(a).  The Form Interrogatories to both Plaintiffs are attached to the Declaration of Louis F. Doyle as Exhibits D and F.  12. In WEICHIAO KU's Amended Response to the Form Interrogatories, Set One, and in PI - LIEN KUO Responses to the Form Interrogatories, Set Three, both Plaintiffs admit they know of no

1	Defendant. Neither Plaintiff indicates	
2	they witnessed Defendant with respect to the incident. (Plaintiffs'	
3	Responses to Form Interrogatories No.	
4	12.1.)	
5	Plaintiff WEICHIAO KU's Amended Responses to Form Interrogatories, Set	
6	One, and Verifications thereto are collectively attached to the Declaration	
7	of Louis F. Doyle as Exhibit E.	
8	Plaintiff PI - LIEN KUO's Responses to Form Interrogatories, Three, and her	
9	Verification thereto are collectively	
10	attached to the Declaration of Louis F. Doyle as Exhibit G.	
11	13. Defendant had nothing to do with	
12	Alice Ku's disappearance or alleged	Disputed. Defendant made no efforts to
13	injury or alleged death.	locate his missing wife and brazenly lied to his family, Alice's family, and others about
14		his non-efforts and other matters. He lied under oath. He destroyed Alice's computers
15		and electronic devices before Plaintiffs'
16		could examine them. Defendant Herchen sent himself a cover-up email from Decedent's
17	(Herchen Decl., ¶ 5).	email account to cover up her death.
18		Defendant Herchen failed to cooperate with investigators searching for Alice.
19		<b>Proof:</b> Excepts from the Deposition of
20		Harald Herchen, attached to the Declaration
21	·	of Todd K. Davis at ¶ 4-5, <b>Exhibit A, B</b> ; Declaration of George Ku, ¶ 4-18;
22		Declaration of Li Tsung Su, ¶¶ 1-7;
23		Declaration of Yang Chi Lee, ¶¶ 1-4; Declaration of Dr. Tal Lavian, ¶¶1-38.)
24		Objection: (1) Lacks foundation [Evid. Code
25		§702], this is not a material fact supported by
26		admissible evidence but rather Defendant's own self-serving conclusion; (2) Lacks
27		Foundation/Inadmissible
28		Opinion/Conclusion: The credibility and admissibility of Defendant's testimony is in
U		question given he is an admitted perjurer.
		The trier of fact may disregard all of the

1		testimony of a party if it determines that he
2		testified falsely as to some matters covered by his testimony (Evid. Code §780; CACI
3		5003; Nelson v. Black (1954) 43 Cal.2d 612; People v. Lavergne (1971), 4 Cal. 3d 735)].
4	14. Defendant categorically denies that	300 (2012)
5	he caused, contributed to or had anything to do with Alice Ku's	Disputed that this is a material fact; it is not.  It is Defendant's self-serving conclusions
6	disappearance or alleged injury or death. Alice was alive and well when	unsupported by admissible, credible evidence.
7	Defendant dropped her off at the	
8	train station on November 29, 2019, and that was the last time Defendant	Disputed that Alice was alive and well when
9	saw her. (Herchen Decl., ¶¶ 5, 6.)	Defendant dropped her off at the train station on November 29, 2019.
10		Defendant has offered <b>no</b> proof that he
11		dropped Alice off at the train station as he reports. Defendant Herchen made no efforts
		to locate his missing wife and brazenly lied
13		to his family, Alice's family, and others about his non-efforts and other matters. He
14		lied under oath. He destroyed Alice's
15		computers and electronic devices before
		Plaintiffs' could examine them. Defendant Herchen sent himself a cover-up email from
16		Decedent's email account to cover up her
17		death. Defendant Herchen failed to cooperate
18		with investigators searching for Alice.
19		<b>Proof:</b> Excepts from the Deposition of
20		Harald Herchen, attached to the Declaration
		of Todd K. Davis at ¶ 4-5, Exhibit A, B;
21		Declaration of George Ku, ¶ 4-18; Declaration of Li Tsung Su, ¶¶ 1-7;
22		Declaration of Yang Chi Lee, ¶¶ 1-4;
23		Declaration of Dr. Tal Lavian, ¶¶ 1-38.)
24		Objection: (1) Lacks foundation [Evid. Code
25		§702], this is not a material fact supported by admissible evidence but rather Defendant's
26		own self-serving statements/conclusions; (2) Lacks Foundation/Inadmissible
27		Opinion/Conclusion: The credibility and
		admissibility of Defendant's testimony is in
28		question given he is an admitted perjurer.
		[The trier of fact may disregard all of the
	7	testimony of a party if it determines that he

One, and the Verifications thereto are collectively attached to the Declaration of Louis F. Doyle as Exhibit E. Plaintiff PI - LIEN KUO's Responses to Form Interrogatories, Set Three and Verification, are collectively attached to the Declaration of Louis F. Doyle as Exhibit G.  Exhibit G.  And the Verifications thereto are collectively attached to the Declaration of Louis F. Doyle as Exhibit G.  and that they are investigating her disappearance and death as a homicide. Special Investigator Li Tsung Su of the Criminal Investigation Bureau of Taiwan's National Police Agency confirmed that Taiwan is investigating Alice's disappearance as a homicide, that they believe Alice is dead, and that she was killed by homicide. Defendant Harald Herchen has an outstanding warrant in Taiwan in connection with Alice's homicide. (Declaration of Li Tsung Su, ¶¶ 1-7;	1 2 3		testified falsely as to some matters covered by his testimony (Evid. Code §780; CACI 5003; Nelson v. Black (1954) 43 Cal.2d 612; People v. Lavergne (1971), 4 Cal. 3d 735)].
that such photographs, films, or videotapes exist. (See Plaintiff WEICHIAO KU's Amended Responses to Form Interrogatories, Set One, No. 12.2.)  Plaintiff WEICHIAO KU's Amended Responses to Form Interrogatories, Set One, and Verifications thereto are collectively attached to the Declaration of Louis F. Doyle as Exhibit E.  17. Plaintiffs admit they have not obtained a written or recorded statement from anyone concerning the alleged injury or death of Alice Ku. (Plaintiff WEICHIAO KU's Amended Responses to Form Interrogatories, Set One, No. 12.3; Plaintiff PI - LIEN KUO's Responses to Form Interrogatories, Set Three, No. 12.3.)  Plaintiff PI - LIEN KUO's Amended Responses to Form Interrogatories, Set Three, No. 12.3.)  Plaintiff PI - LIEN KUO's Amended Responses to Form Interrogatories, Set One, and the Verifications thereto are collectively attached to the Declaration of Louis F. Doyle as Exhibit E.  Plaintiff PI - LIEN KUO's Responses to Form Interrogatories, Set Three and Verification, are collectively attached to the Declaration of Louis F. Doyle as Exhibit G.  Proof:  Taiwan law enforcement officials have declared that they presume Alice Ku is dead, and that they are investigating her disappearance and death as a homicide. Special Investigation Bureau of Taiwan's National Police Agency confirmed that Taiwan is investigating Alice's disappearance as a homicide, that they believe Alice is dead, and that she was killed by homicide. Defendant Harald Herchen has an outstanding warrant in Taiwan in connection with Alice's homicide. (Declaration of Li Tsung Su, ¶ 1-7;	5	photographs, films, or videotapes depicting or evidencing the alleged injury or death of Alice Ku. (Herchen	Undisputed.
17. Plaintiffs admit they have not obtained a written or recorded statement from anyone concerning the alleged injury or death of Alice Ku. (Plaintiff WEICHIAO KU's Amended Responses to Form Interrogatories, Set One, No. 12.3; Plaintiff PI - LIEN KUO's Responses to Form Interrogatories, Set One, and the Verifications thereto are collectively attached to the Declaration of Louis F. Doyle as Exhibit E. Plaintiff PI - LIEN KUO's Responses to Form Interrogatories, Set Three and Verification, are collectively attached to the Declaration of Louis F. Doyle as Exhibit G.  17. 18. 17. 17. 17. 18. 18. 19. 19. 19. 19. 19. 19. 19. 19. 19. 19	8 9 0 1 2 3	that such photographs, films, or videotapes exist. (See Plaintiff WEICHIAO KU's Amended Responses to Form Interrogatories, Set One, No. 12.2.)  Plaintiff WEICHIAO KU's Amended Responses to Form Interrogatories, Set One, and Verifications thereto are collectively attached to the Declaration	Undisputed.
18. On or about November 11, 2021,	5 6 7 8 9 20 21 22 23 24 25 26 27	a written or recorded statement from anyone concerning the alleged injury or death of Alice Ku. (Plaintiff WEICHIAO KU's Amended Responses to Form Interrogatories, Set One, No. 12.3; Plaintiff PI - LIEN KUO's Responses to Form Interrogatories, Set Three, No. 12.3.)  Plaintiff WEICHIAO KU's Amended Responses to Form Interrogatories, Set One, and the Verifications thereto are collectively attached to the Declaration of Louis F. Doyle as Exhibit E. Plaintiff PI - LIEN KUO's Responses to Form Interrogatories, Set Three and Verification, are collectively attached to the Declaration of Louis F. Doyle as Exhibit G.	Interrogatory Responses Plaintiff had not obtained any statement concerning Alice's disappearance and death.  Disputed, as of the present time.  Proof: Taiwan law enforcement officials have declared that they presume Alice Ku is dead, and that they are investigating her disappearance and death as a homicide. Special Investigator Li Tsung Su of the Criminal Investigation Bureau of Taiwan's National Police Agency confirmed that Taiwan is investigating Alice's disappearance as a homicide, that they believe Alice is dead, and that she was killed by homicide. Defendant Harald Herchen has an outstanding warrant in Taiwan in connection with Alice's homicide.

1	Defendant HARALD HERCHEN	Undisputed
2	propounded Special Interrogatories, Set One, directed to Plaintiff WEICHIAO	
3	KU.	
4	Defendant HARALD HERCHEN's	
5	Special Interrogatories, Set One, directed to Plaintiff WEICHIAO KU is	
6	attached to the Declaration of Louis F.	
7	Doyle as <u>Exhibit H.</u>	
	19. On or about January 31, 22, Plaintiff	
8	WEICHIAO KU propounded Responses to Special Interrogatories,	Undisputed
9	Set One; a verification to those	
10	responses signed by WEICHIAO KU on February 8, 2022 was subsequently	
11	forwarded by Plaintiffs' counsel to	
12	defense counsel.	
13	Plaintiff WEICHIAO KU's Responses to Special Interrogatories, Set One and	
14	the Verifications thereto are	
15	collectively attached to the Declaration of Louis F. Doyle as <b>Exhibit I</b> .	
16	of House 11 Boy to the same	
17	20. Defendant HARALD HERCHEN	
18	propounded Special Interrogatories, Set Three, directed to Plaintiff PI - LIEN	Undisputed
19	KUO.	
20	Defendant HARALD HERCHEN's	
	Special Interrogatories, Set Three, directed to Plaintiff PI - LIEN KUO is	
21	attached to the Declaration of Louis F.	
22	Doyle as <u>Exhibit J.</u>	
23	21. On or about March 15, 2022, Plaintiff	
24	PI - LIEN KUO propounded Responses to Special Interrogatories, Set Three; a	Undisputed
25	verification to those responses signed	
26	by PI - LIEN KUO on March 21, 2022 was subsequently forwarded by	
27	Plaintiffs' counsel to defense counsel.	
28	Plaintiff PI - LIEN KUO's Responses	
	to Special Interrogatories, Set Three, and the Verification thereto are	

1	collectively attached to the Declaration	
2	of Louis F. Doyle as <b>Exhibit K</b> .	
3	22. The sole concrete item Plaintiffs have relied on for causation pertains to an	I I di mutud that an amail was cont from
4	email dated November 30, 2019, from	Undisputed that an email was sent from Alice's computer to Defendant Harald
5	Alice Ku to Defendant Harald Herchen,	Herchen on or about November 29, 2019
6	which Plaintiffs <i>allege</i> was transmitted through the Taiwan hotel IP address.	through the Taiwan hotel's IP address.
7	Hereinafter, for clarity the subject email will be referred to as "the Email." A	Disputed as to Defendant's interpretation and characterization of Plaintiff's claim with
8	true copy of the Email is attached to the	respect to the email; Disputed as to
	Declaration of Louis F. Doyle, as	Defendant's opinions and interpretation of
9	Exhibit L.	evidence relied Plaintiff has and will rely on to prove the stated claims.
10		
11		The Nov. 29 Email was, with certainty, not sent from Decedent's parents' area of Taiwan.
12		The Nov. 29 Email was sent from the hotel in
13		Haulien where Defendant and Decedent were staying when Alice purportedly left by train
14		on November 29, 2019. The IP address of
15		the email is that of the hotel Wi-fi in
Ì		Hualien, which is where the victim's email account was still logged in to her Google
16		Gmail account, using the web interface of
17		Gmail. The timestamp of the Email is consistent with most of the other emails that
18		Alice sent from Taiwan, in that the device
19		that sent the email was not on the Taiwan
20		time zone; It was on the Pacific time zone (UTC -8), rather than the Taiwan time zone
21		(UTC +8), which is confirmed by the email
		headers and the Google-produced mailbox
22		file for the victim's email account. In addition, Decedent did not have her
23		computer with her at that time, according to
24		Defendant, she had left it in the hotel.
25		<b>Proof:</b> Plaintiff's claims are set forth in the
26		operative First Amended Complaint, on file with this Court; Excerpts from the
27		Depositions of Harald Herchen, attached to
28		the Declaration of Todd K. Davis at ¶ 4-5,
20		Exhibit A, B; Declaration of Dr. Tal Lavian, ¶¶ 1-38.

1 Objection: (1) Lacks foundation [Evid. Code §702], this is not a material fact supported by 2 admissible evidence but rather Defendant's own self-serving conclusion; (2) Lacks 3 Foundation/Inadmissible 4 Opinion/Conclusion: The credibility and admissibility of Defendant's testimony is in 5 question given he is an admitted perjurer. 6 [The trier of fact may disregard all of the testimony of a party if it determines that he 7 testified falsely as to some matters covered by his testimony (Evid. Code §780; CACI 8 5003; Nelson v. Black (1954) 43 Cal.2d 612; 9 People v. Lavergne (1971), 4 Cal. 3d 735)]. 10 23. After Harald dropped Alice off at the Sentence one of Statement #23: Disputed. train station in Taiwan for her to go to 11 see her parents, he returned to the hotel. Objection: (1) Lacks foundation [Evid. Code 12 After a while Harald sent an email to §702], this is not a material fact supported by Alice suggesting that he and Alice admissible evidence but rather Defendant's 13 would meet at the airport lounge the own self-serving conclusion; (2) Lacks 14 next day to take their flight back home. Foundation/Inadmissible Alice responded to Harald's email with Opinion/Conclusion: The credibility and 15 the Email stating that she wanted to admissibility of Defendant's testimony is in stay in Taiwan an extra week and to question given he is an admitted perjurer. 16 please change her flight to The trier of fact may disregard all of the 17 accommodate same. (Herchen Dep., testimony of a party if it determines that he pages 148-153; Herchen Decl., ¶ 16.) testified falsely as to some matters covered 18 by his testimony (Evid. Code §780; CACI 19 5003; Nelson v. Black (1954) 43 Cal.2d 612; People v. Lavergne (1971), 4 Cal. 3d 735)]. 20 Sentence two of Statement #23: Disputed. 21 22 Objection: (1) Lacks foundation [Evid. Code §702], this is not a material fact supported by 23 admissible evidence but rather Defendant's 24 own self-serving conclusion; (2) Lacks Foundation/Inadmissible 25 Opinion/Conclusion: The credibility and admissibility of Defendant's testimony is in 26 question given he is an admitted perjurer. 27 [The trier of fact may disregard all of the testimony of a party if it determines that he 28 testified falsely as to some matters covered by his testimony (Evid. Code §780; CACI

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5003; Nelson v. Black (1954) 43 Cal.2d 612; People v. Lavergne (1971), 4 Cal. 3d 735)]; (3) Lacks Foundation: Defendant has failed to produce the email he alleges he sent to Alice referred to in sentence two.

Sentence three of Statement #23: Undisputed that an email was sent from the decedent's computer from the Taiwan hotel IP address; Disputed that it was sent by Alice.

Objection: (1) Lacks foundation [Evid. Code §702], this is not a material fact supported by admissible evidence but rather Defendant's own self-serving conclusion; (2) Lacks Foundation/Inadmissible Opinion/Conclusion: The credibility and admissibility of Defendant's testimony is in question given he is an admitted perjurer. [The trier of fact may disregard all of the testimony of a party if it determines that he testified falsely as to some matters covered by his testimony (Evid. Code §780; CACI 5003; Nelson v. Black (1954) 43 Cal.2d 612; People v. Lavergne (1971), 4 Cal. 3d 735).]

The Nov. 29 Email was, with certainty, not sent from Decedent's parents' area of Taiwan. The Nov. 29 Email was sent from the hotel in Haulien where Defendant and Decedent were staying when Alice purportedly left by train on November 29, 2019. The IP address of the email is that of the hotel Wi-fi in Hualien, which is where the victim's email account was still logged in to her Google Gmail account, using the web interface of Gmail. The timestamp of the Email is consistent with most of the other emails that Alice sent from Taiwan, in that the device that sent the email was not on the Taiwan time zone; It was on the Pacific time zone (UTC -8), rather than the Taiwan time zone (UTC +8), which is confirmed by the email headers and the Google-produced mailbox file for the victim's

1		email account. In addition, Decedent did not
2		have her computer with her at that time,
_		according to Defendant, she had left it in the
3		hotel.  Defendant has offered <b>no</b> proof that he dropped
4		Alice off at the train station as he reports.
5		Times off at the fram station as he reports.
ا د		<b>Proof:</b> Excepts from the Deposition of Harald
6		Herchen, attached to the Declaration of Todd
7		K. Davis at ¶ 4-5, Exhibit A, B; Declaration of
·		George Ku, ¶ 4-18; Declaration of Dr. Tal
8	24. Plaintiffs <i>allege</i> they have evidence	Lavian, ¶¶ 1-38.
9	from Google that the Email was transmitted	Sentence one of Statement 24: Undisputed.
1	through the hotel Wi-Fi or IP address.	Sentence one of Statement 24. Ondisputed.
10	Plaintiffs apparently <i>contend</i> that this proves	Sentence two of Statement 24: Undisputed.
11	Harald had sent the Email, purportedly	
12	Alice's response to him, as a ruse to cover for	Sentences three and four of Statement 24:
	himself. However, even if it were true and provable that the Email came through the	Disputed.
13	hotel Wi-Fi and this can be established	Objection: (1) Lacks foundation [Evid. Code
14	with admissible evidence, it does not prove	§702], this is not a material fact supported by
1.5	the Email was sent by Defendant. Any	admissible evidence but rather Defendant's
15	claim that Defendant sent the Email is pure	own self-serving conclusion; (2) Lacks
16	speculation. The Email could just as likely	Foundation/Inadmissible
17	been sent by Alice from another room in the	Opinion/Conclusion: The credibility and
17	hotel or even some distance from the hotel.	admissibility of Defendant's testimony is in question given he is an admitted perjurer.
18	(Herchen Decl., ¶ 17.)	[The trier of fact may disregard all of the
19		testimony of a party if it determines that he
		testified falsely as to some matters covered
20		by his testimony (Evid. Code §780; CACI
21		5003; Nelson v. Black (1954) 43 Cal.2d 612;
		People v. Lavergne (1971), 4 Cal. 3d 735)];
22		(3) Improper Expert Opinion from Lay Witness (Cal. Evid. Code §§ 720, 800-803;
23		Greshko v. County of Los Angeles (1987) 194
24		Cal. App. 3d 822, 834.
25		The Nov. 29 Email was, with certainty, not sent from Decedent's parents' area of Taiwan.
26		The Nov. 29 Email was sent from the hotel in
27		Haulien where Defendant and Decedent were
21		staying when Alice purportedly left by train
28		on November 29, 2019. The IP address of
		the email is that of the hotel Wi-fi in
		Hualien, which is where the victim's email

1 account was still logged in to her Google Gmail account, using the web interface of 2 Gmail. The timestamp of the Email is 3 consistent with most of the other emails that Alice sent from Taiwan, in that the device 4 that sent the email was not on the Taiwan time zone; It was on the Pacific time zone 5 (UTC -8), rather than the Taiwan time zone 6 (UTC +8), which is confirmed by the email headers and the Google-produced mailbox 7 file for the victim's email account. In addition, Decedent did not have her 8 computer with her at that time, according to 9 Defendant, she had left it in the hotel. 10 **Proof:** Plaintiff's claims are set forth in the operative First Amended Complaint, on file 11 with this Court; Excepts from the Deposition 12 of Harald Herchen, attached to the Declaration of Todd K. Davis at ¶ 4-5, 13 Exhibit A, B; Declaration of George Ku, ¶ 4-14 18; Declaration of Dr. Tal Lavian, ¶¶ 1-38. 15 The full extent of the hotel's Wi-Fi coverage is unknown, but it extends at least Undisputed as to Defendant's admission that 16 throughout the hotel building and grounds. he the extent of the hotel's wi-fi coverage is 17 (Herchen Decl., ¶ 17.) unknown to Defendant. 18 Objection as to Defendant's qualification to testify as to the hotel's wi-fi coverage. 19 20 Disputed. The Nov. 29 Email was, with certainty, not sent from Decedent's parents' 21 area of Taiwan. The Nov. 29 Email was sent 22 from the hotel in Haulien where Defendant and Decedent were staying when Alice 23 purportedly left by train on November 29, 2019. The IP address of the email is that of 24 the hotel Wi-fi in Hualien, which is where 25 the victim's email account was still logged in to her Google Gmail account, using the web 26 interface of Gmail. The timestamp of the Email is consistent with most of the other 27 emails that Alice sent from Taiwan, in that 28 the device that sent the email was not on the Taiwan time zone; It was on the Pacific time zone (UTC -8), rather than the Taiwan time

1		zone (UTC +8), which is confirmed by the
2		email headers and the Google-produced mailbox file for the victim's email account.
3		In addition, Decedent did not have her
4		computer with her at that time, according to
		Defendant, she had left it in the hotel.
5		<b>Proof:</b> Excepts from the Deposition of
6		Harald Herchen, attached to the Declaration
7		of Todd K. Davis at ¶ 4-5, <b>Exhibit A, B</b> ; Declaration of Dr. Tal Lavian, ¶¶ 1-38.
8		
9		Objection: (1) Lacks foundation [Evid. Code §702], this is not a material fact supported by
10	-	admissible evidence but rather Defendant's own self-serving conclusion; (2) Lacks
11		Foundation/Inadmissible
12		Opinion/Conclusion: The credibility and
		admissibility of Defendant's testimony is in question given he is an admitted perjurer.
13		The trier of fact may disregard all of the
14		testimony of a party if it determines that he
15		testified falsely as to some matters covered by his testimony (Evid. Code §780; CACI
16		5003; Nelson v. Black (1954) 43 Cal.2d 612;
17		People v. Lavergne (1971), 4 Cal. 3d 735)]; (3) Improper Expert Opinion from Lay
18		Witness (Cal. Evid. Code §§ 720, 800-803;
		Greshko v. County of Los Angeles (1987) 194 Cal. App. 3d 822, 834.
19		Cai. App. 3d 822, 834.
20		
21	26. The transmission of Alice's last Email	Disputed The Nov. 29 Email was, with
22	through the hotel's IP address proves nothing regarding her alleged injury or death or its	certainty, not sent from Decedent's parents'
23	cause. (Herchen Decl., ¶17.)	area of Taiwan. The Nov. 29 Email was sent from the hotel in Haulien where Defendant
24		and Decedent were staying when Alice
25		purportedly left by train on November 29, 2019. The IP address of the email is that of
		the hotel Wi-fi in Hualien, which is where
26		the victim's email account was still logged in to her Google Gmail account, using the web
27		interface of Gmail. The timestamp of the
28		Email is consistent with most of the other
		emails that Alice sent from Taiwan, in that the device that sent the email was not on the

1 2		Taiwan time zone; It was on the Pacific time zone (UTC -8), rather than the Taiwan time
		zone (UTC +8), which is confirmed by the
3		email headers and the Google-produced mailbox file for the victim's email account.
4		In addition, Decedent did not have her
5		computer with her at that time, according to Defendant, she had left it in the hotel.
6		<b>Proof:</b> Excepts from the Deposition of
7		Harald Herchen, attached to the Declaration
8		of Todd K. Davis at ¶ 4-5, <b>Exhibit A, B</b> ; Declaration of Dr. Tal Lavian, ¶¶ 1-38.
9		
10	, commented to the state of the	Objection: (1) Lacks foundation [Evid. Code §702], this is not a material fact supported by
11		admissible evidence but rather Defendant's
12		own self-serving conclusion; (2) Lacks Foundation/Inadmissible
13		Opinion/Conclusion: The credibility and admissibility of Defendant's testimony is in
14		question given he is an admitted perjurer.
15		The trier of fact may disregard all of the
16		testimony of a party if it determines that he testified falsely as to some matters covered
17		by his testimony (Evid. Code §780; CACI 202; CACI 5003; Nelson v. Black (1954) 43
18		Cal.2d 612; <i>People v. Lavergne</i> (1971), 4
19		Cal. 3d 735)]; (3) Improper Expert Opinion from Lay Witness (Cal. Evid. Code §§ 720,
20		800-803; Greshko v. County of Los Angeles
21		(1987) 194 Cal. App. 3d 822, 834; (4) Improper Legal Conclusion.
22		
23	27. Plaintiffs have no personal, direct, or	TI. diamental di la Divisioni di
24	admissible evidence that the Email was sent	Undisputed that Plaintiff does not have personal knowledge that the Email was
	by Defendant. (See Plaintiff PI-LIEN KUO's Responses to Special Interrogatories, Set	sent by Defendant; Plaintiff was not
25	Three, No. 11; Plaintiff WEICHIAO KU's	present in Taiwan in the couples' hotel room when the Email was sent by
26	Responses to Special Interrogatories, Set One, No. 15.)	Defendant.
27	Plaintiff PI-LIEN KUO's Responses to	Undisputed that Plaintiff does not have
28	Special Interrogatories, Set Three are	direct evidence that the Email was sent by Defendant; Plaintiff was not present in
	attached to the Declaration of Louis F. Doyle as Exhibit K. Plaintiff	Taiwan in the couples' hotel room when
1	16	

1	WEICHIAO KU's Responses to	the Email was sent by Defendant.
2	Special Interrogatories, Set One and the	·
3	Verification thereto are collectively attached to the Declaration of Louis F.	Disputed as to whether Plaintiff has admissible evidence to establish that
	Doyle as Exhibit I.	Defendant sent the Email.
4	,	The Nov. 29 Email was, with certainty, not
5		sent from Decedent's parents' area of
6		Taiwan. The Nov. 29 Email was sent from the hotel in Haulien where Defendant and
İ		Decedent were staying when Alice
7		purportedly left by train on November 29,
8		2019. The IP address of the email is that
9		of the hotel Wi-fi in Hualien, which is where the victim's email account was still
10		logged in to her Google Gmail account,
10		using the web interface of Gmail. The
11		timestamp of the Email is consistent with
12		most of the other emails that Alice sent from Taiwan, in that the device that sent
13		the email was not on the Taiwan time
		zone; It was on the Pacific time zone
14		(UTC -8), rather than the Taiwan time
15		zone (UTC +8), which is confirmed by the email headers and the Google-produced
16		mailbox file for the victim's email account.
17		In addition, Decedent did not have her
		computer with her at that time, according to Defendant, she had left it in the hotel.
18		to Defendant, she had left it in the notes.
19		<b>Proof:</b> Excepts from the Deposition of
20		Harald Herchen, attached to the Declaration of Todd K. Davis at ¶ 4-5,
		Exhibit A, B; Declaration of George Ku, ¶
21		4-18; Declaration of Dr. Tal Lavian, ¶¶ 1-
22		38.
23		Objection: (1) Lacks foundation [Evid. Code
24		§702], this is not a material fact supported by admissible evidence but rather Defendant's
25		own self-serving conclusion; (2) Lacks
26		Foundation/Inadmissible
27		Opinion/Conclusion: The credibility and admissibility of Defendant's testimony is in
		question given he is an admitted perjurer.
28		The trier of fact may disregard all of the
		testimony of a party if it determines that he
	17	testified falsely as to some matters covered
	PLAINTIFF'S RESPONSE TO DEFENDANT'S STATEMEN	NT OF UNDISPUTED FACTS AND EVIDENCE IN SUPPORT

1		by his testimony (Evid. Code §780; CACI
2		202; CACI 5003; Nelson v. Black (1954) 43
3		Cal.2d 612; <i>People v. Lavergne</i> (1971), 4 Cal. 3d 735)].
4		
5	28. Defendant did not send the Email.	
6		Disputed.
7		The Nov. 29 Email was, with certainty, not
8	(Herchen Decl., 16, 17.)	sent from Decedent's parents' area of Taiwan. The Nov. 29 Email was sent from the hotel in
9		Haulien where Defendant and Decedent were staying when Alice purportedly left by train
		on November 29, 2019. The IP address of
10		the email is that of the hotel Wi-fi in Hualien, which is where the victim's email
11		account was still logged in to her Google
12		Gmail account, using the web interface of Gmail. The timestamp of the Email is
13		consistent with most of the other emails that
14		Alice sent from Taiwan, in that the device that sent the email was not on the Taiwan
15		time zone; It was on the Pacific time zone
16		(UTC -8), rather than the Taiwan time zone
17		(UTC +8), which is confirmed by the email headers and the Google-produced mailbox
18		file for the victim's email account. In
		addition, Decedent did not have her computer with her at that time, according to
19		Defendant, she had left it in the hotel.
20		<b>Proof:</b> Excepts from the Deposition of
21		Harald Herchen, attached to the Declaration
22		of Todd K. Davis at ¶ 4-5, <b>Exhibit A, B</b> ; Declaration of George Ku, ¶ 4-18;
23		Declaration of Dr. Tal Lavian, ¶¶ 1-38
24		Objection: (1) Lacks foundation [Evid. Code
25		§702], this is not a material fact supported by
26		admissible evidence but rather Defendant's own self-serving conclusion; (2) Lacks
27		Foundation/Inadmissible Opinion/Conclusion:
28		The credibility and admissibility of Defendant's testimony is in question given he
<i>≟</i> .∪		is an admitted perjurer. [The trier of fact may
		disregard all of the testimony of a party if it

1		determines that he testified falsely as to some matters covered by his testimony (Evid. Code
3		§780; CACI 202; CACI 5003; Nelson v. Black (1954) 43 Cal.2d 612; People v. Lavergne
4		(1971), 4 Cal. 3d 735)].
5	29. Plaintiffs have no personal, direct, or	
6	admissible evidence regarding Alice Ku's credit card usage. (See Herchen Decl., ¶ 14.)	Disputed. Alice did not use or access any of her financial holdings/credit cards after
7		November 23, 2019, the day she left for Taiwan. She did not pay her December 2019
8		credit card bill. She did not make any large cash withdrawals prior to leaving for Taiwan.
9		
10		<b>Proof:</b> Declaration of George Ku, ¶ 15-16.
11		Objection: (1) Lacks foundation [Evid. Code §702], this is not a material fact supported by
12		admissible evidence but rather Defendant's
13		own self-serving conclusion; (2) Lacks Foundation/Inadmissible
14		Opinion/Conclusion: The credibility and
15		admissibility of Defendant's testimony is in question given he is an admitted perjurer.
16		[The trier of fact may disregard all of the
17		testimony of a party if it determines that he testified falsely as to some matters covered
18		by his testimony (Evid. Code §780; CACI 202; CACI 5003; Nelson v. Black (1954) 43
19		Cal.2d 612; People v. Lavergne (1971), 4
20		Cal. 3d 735.]
21	30. Defendant Harald Herchen never claimed	
22	that Alice was using credit cards for expenses	Undisputed.
23	in Taiwan. (Herchen Decl., ¶ 14.)	
24	31. Alice Ku possessed ample cash to finance her longer stay in Taiwan. (Herchen	Disputed. Alice did not use or access any
25	Dep., page 165; Herchen Decl., ¶ 15.)	of her financial holdings/credit cards after
26		November 23, 2019, the day she left for Taiwan. She did not pay her December
27		2019 credit card bill. She did not make any large cash withdrawals prior to
28		leaving for Taiwan.
		<b>Proof:</b> Declaration of George Ku, ¶ 15-16.

1 2 3 4 5 6 7 8 9 10 11 12 13 14	32. The police NEVER responded to a domestic argument between Defendant Harald Herchen and Alice Ku. (Herchen Decl., ¶ 13.)	Objection: (1) Lacks foundation [Evid. Code §702], this is not a material fact supported by admissible evidence but rather Defendant's own self-serving conclusion; (2) Lacks Foundation/Inadmissible Opinion/Conclusion: The credibility and admissibility of Defendant's testimony is in question given he is an admitted perjurer. [The trier of fact may disregard all of the testimony of a party if it determines that he testified falsely as to some matters covered by his testimony (Evid. Code §780; CACI 202; CACI 5003; Nelson v. Black (1954) 43 Cal.2d 612; People v. Lavergne (1971), 4 Cal. 3d 735.]  Undisputed.
15 16 17	admissible evidence that any such police response ever occurred. (See Herchen Decl., ¶ 13.)  34.Alice was familiar with the area where	Undisputed.
18 19 20	her parents lived in Taiwan. She knew the area, she spoke the language and she had very recently spoken to her mother by telephone so she likely had her mother's	Undisputed that Alice spoke Taiwanese.  Disputed that Alice spoke recently to her mother. Alice spoke daily or close to daily
21 22	telephone number. (See Plaintiff Pi-Lien Kuo's response to Special Interrogatory No. 2, Set Three, where she states she spoke with Alice by telephone between November	with her sister Josephine, but hadn't talked to her mother since a few weeks before her trip. Alice's mother did not know Alice was coming to Taiwan, and Alice did not talk to
23 24	7 and November 17 of 2019; Herchen Dccl., ¶ 10.	her when she was in Taiwan. The last communication from Alice was a text message sent to Josephine November 26
25 26		(California time, November 27 Taiwan time).  *Proof: Declaration of George Ku, ¶ 3.
27 28		Disputed that Alice was familiar with the area that her parents lived in.

1	<b>Proof:</b> Declaration of George Ku, ¶ 17.
2	Objection: (1) Lacks foundation
3	[Evid. Code §702], this is not a
4	material fact supported by admissible evidence but rather Defendant's own
5	self-serving conclusion; (2) Lacks
6	Foundation/Inadmissible Opinion/Conclusion: The credibility
	and admissibility of Defendant's
7	testimony is in question given he is
8	an admitted perjurer. [The trier of fact may disregard all of the testimony of
9	a party if it determines that he
10	testified falsely as to some matters
11	covered by his testimony (Evid. Code §780; CACI 5003; Nelson v. Black
12	(1954) 43 Cal.2d 612; <i>People v</i> .
13	Lavergne (1971), 4 Cal. 3d 735.]
14	
15	Plaintiffs' repeat and reallege their responses to Defendants' Statement of Undisputed Facts 1
16	through 34 and incorporate the same herein, for Defendants' Motion for Summary Adjudication for
17	
18	Causes of Action 1 through 3.
19	
20	Dated: November 22, 2022 FARLING, HECHT & DAVIS
21	
22	By
23	TODD K. DAVIS
24	Attorneys for Plaintiffs
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26	
27	
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