QUINN EMANUEL URQUHART & SULLIVAN, LLP
Michael B. Carlinsky (*pro hac forthcoming*)
michaelcarlinsky@quinnemanuel.com
Jonathan E. Feder (*pro hac forthcoming)*
jonathanfeder@quinnemanuel.com
295 Fifth Avenue, 9th Floor
New York, NY 10016
Telephone: 212.849.7000
Facsimile: 212.849.7100

Derek L. Shaffer (SBN 212746)
derekshaffer@quinnemanuel.com
1300 I Street NW, Suite 900
Washington, D.C. 20005
Telephone: 202.538.8000
Facsimile: 202.538.8100

Christopher Tayback (SBN 145532)
christayback@quinnemanuel.com
J'me K. Forrest (SBN 290579)
jmeforrest@quinnemanuel.com
865 S Figueroa St, 10th Floor
Los Angeles, CA 90017
Telephone: 213.443.3000
Facsimile: 213.443.3100

HOLLAND & KNIGHT LLP
Sarah Kelly-Kilgore (SBN 284571)
sarah.kellykilgore@hklaw.com
Amir A. Shakoorian (SBN 324442)
amir.shakoorian@hklaw.com
Zachary J. Watson (SBN 348019)
zachary.watson@hklaw.com
4675 MacArthur Court, Suite 900
Newport Beach, CA 92660
Telephone: 949.833.8550
Facsimile: 949.833.8540

Attorneys for Defendant
SAN DIEGO COUNTY CREDIT UNION

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

MAY NOT BE EXAMINED WITHOUT COURT ORDER-CONTAINS MATERIALS FROM CONDITIONALLY SEALED RECORD

CALIFORNIA COAST CREDIT UNION, a California Nonprofit Corporation Plaintiff, vs. SAN DIEGO COUNTY CREDIT UNION, a California Nonprofit Corporation Defendant.	Case No.: 25CU063843C Assigned for All Purposes to: Honorable Carolyn M. Caietti, Department C-70 **[UNREDACTED] SAN DIEGO COUNTY CREDIT UNION'S OPPOSITION TO CALIFORNIA COAST CREDIT UNION'S EX PARTE APPLICATION FOR TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE REGARDING PRELIMINARY INJUNCTION** *Filed concurrently with Declaration of Carolyn Kissick* **EX PARTE HEARING DATE** DATE: December 17, 2025 TIME: 8:30 a.m. DEPT.: C-70 Complaint Filed: November 25, 2025 Trial Date: None set

MAY NOT BE EXAMINED WITHOUT COURT ORDER-CONTAINS MATERIALS FROM CONDITIONALLY SEALED RECORD

TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES

Page

Cases

Statutes

Other Authorities

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Emergency ex parte relief is sparingly reserved for the rare case where such relief is straightforward, targeted and essential to preserve the status quo in the face of imminent, irreparable harm. This case falls on the opposite side of the spectrum. What Plaintiff California Coast Credit Union (Cal Coast) now seeks is a judicially-compelled merger between it and Defendant San Diego County Credit Union (SDCCU), two heavily-regulated financial institutions whose compliance cultures and approaches demonstrably differ. Cal Coast's unprecedented bid for such judicial compulsion is misconceived and foreclosed—based on the merits, the equities and the practicalities.

For now, it suffices to note that Cal Coast lacks any colorable case for obtaining the breathtaking relief it seeks at the *threshold*, amidst numerous, profound disputes between the parties over whether Cal Coast has violated its obligations under the parties' merger agreement, and, indeed, under the banking laws. The available record, as turned up during the merger process, reflects Cal Coast's systemic non-compliance with the laws, rules, and regulations governing credit unions. Cal Coast cannot sidestep its compliance obligations and leadership failures, while enlisting this Court to dragoon SDCCU into an unsound merger that would upend the status quo and engender regulatory peril. Yet that is what Cal Coast is attempting, under auspices of a temporary restraining order (TRO). The instant request is defective from soup to nuts, both procedurally and substantively.

First, Cal Coast cannot obtain its requested relief on an ex parte basis because it exhibited a lack of diligence before seeking ex parte relief. (See generally TRO Appl'n at pp. 6–20.) Cal Coast's own evidence confirms that, after receiving SDCCU's Notice, it *waited weeks* before first seeking relief, *then days* after filing a complaint without hinting at any prospect of ex parte relief. (Declaration of Jason M. Ohta (Ohta Decl.), Ex. 1 at p. 17.) Such delay refutes any claim of sudden exigency. Delay aside, the parties' Supplemental Merger Agreement *expressly authorizes* either party to terminate the merger for cause, *without* providing for injunctive relief or specific performance. (See generally Compl., Ex. A (hereinafter, Agreement).) In no case like this has any court ever enjoined the termination of a merger agreement.

Second, Cal Coast's ex parte request seeks relief that would be unavailable even via a noticed

motion—injunctive relief affirmatively requiring SDCCU to "take 'all acts required or appropriate to consummate the Merger.'" (TRO Appl'n at pp. 18–19, internal ellipses omitted.) No California court has ever granted such affirmative relief in the merger context. Indeed, California law prohibits mandatory injunctions in all but the rarest cases. Because this case involves allegations of contractual breach, any ultimate relief should be monetary—consistent with the compensatory damages Cal Coast seeks (Compl. at p. 34 ¶¶ 8–9) and the prevailing rule in contract cases.

Third, Cal Coast is doomed on the merits. Its own pleadings confirm that Cal Coast falsely represented its compliance with all laws (among other things), then failed to remediate its failures. That breach furnished cause to terminate. Yet SDCCU did *not* terminate upon first discovering the breach. *Rather*, SDCCU resorted to terminating *only after* attempting, for months, to convince Cal Coast to change its stripes and start complying with key regulations and financial safeguards. Unfortunately, Cal Coast balked and chafed at adopting the approach to compliance that is incumbent upon any credit union operating on the scale of SDCCU (the much larger entity). At that point, the only responsible course for SDCCU was to protect itself and its many stakeholders—including its personnel and its members—against potential infection from Cal Coast's compliance failures, inaccuracies, and lack of financial controls. At no stage of this litigation, and certainly not at the outset, should the Court squeeze these entities and their divergent compliance practices into a merged entity that risks running afoul of laws and regulators.

Fourth, Cal Coast has not shown it faces imminent, irreparable harm. Again, monetary relief can be available to remedy monetary harm, as is true in countless contract cases. As to the propriety of SDCCU's termination, the Court can and should adjudicate that following a full and fair process. To the extent Cal Coast seeks specific performance, nothing prevents the Court from considering that en route to final judgment, at which point the merger could potentially resume (if judicially ordered, notwithstanding the factual and legal objections that SDCCU respectfully maintains should be preclusive). What is more, SDCCU welcomes expedition of this case so that the Court can render an informed, definitive judgment for the benefit of both parties. In the present posture, however, the harm SDCCU faces from being pushed further into the clutches of a noncompliant, incompatible partner weighs overwhelmingly against granting the requested TRO.

II. RELEVANT BACKGROUND

A. Factual Background

SDCCU is a non-profit credit union wholly owned and operated by its 413,000+ members. (Compl. at ¶ 13.) Cal Coast is also a member-owned, not-for-profit credit union serving approximately 206,000 members. (*Id.* at ¶ 12.) SDCCU is responsible for approximately $10 billion in assets, while Cal Coast is responsible for $3 billion. (*Id*. at ¶¶ 12, 27.) As financial institutions operating for the benefit of their members, credit unions are heavily regulated, with the degree of scrutiny and regulation increasing as scale increases. Because they operate on a not-for-profit model, their core mission focuses on member protection and responsible operations. (See *id.* at ¶¶ 13, 14, & 67 n.13.) Thus, as Cal Coast puts it, a fundamental assumption of the merger was "commonality of conservative banking principles, and excellent leadership." (*Id.* at ¶ 2.)

Assuming complete and ready compatibility "between two mission-aligned credit unions" (Declaration of Todd Lane (Lane Decl.) at ¶ 18), the parties entered a merger agreement with limited due diligence preceding the signing. Thus, the initial contract memorializes the presuppositions that "SDCCU and Cal Coast are both engaged in the lawful activities of a credit union," that "Cal Coast has complied with all statutes, regulations, rules, and other orders," and that the post-merger entity would be governed by SDCCU's policies. (Agreement at Recitals; *id.* at § 1.2 & 2.5.)

The ensuing Agreement provided for a post-signing "investigation," accompanied by broad conditions and termination rights: SDCCU could terminate if any of the representations or warranties was materially incorrect. (Agreement at § 9.1.3.) Likewise, SDCCU was not obligated to perform under the terms of the Agreement unless all representations and warranties were "in all material respects … true and correct on and as of the date of this Agreement." (*Id.* at §§ 5.7 & 6.1.)

Post-signing, "teams from approximately 20 workstreams worked together to align financial and operational practices in preparation for the anticipated combined credit union." (Lane Decl. at ¶¶ 11–12.) And "executives from SDCCU … [performed] a comprehensive policy review to adopt SDCCU's board-level policies as of closing." (*Id.* at ¶ 14; see *id.* at ¶ 15.) It was during the post-signing integration process that SDCCU discovered Cal Coast's worrisome lack of controls and outright non-compliance. (See Compl. at ¶ 65.) Among the problems were these:

- **Technology Loans.** Cal Coast marketed and issued loans to San Diego State University students, through the university bookstore, to purchase laptops. But Cal Coast neither reported these as student loans, as it must, nor conformed to the requirements governing these federally-regulated loans. (Ohta Decl., Ex. 5 pp. 1-3.)

- **Auto Loans**. Cal Coast's indirect auto lending program pulled FICO credit scores before issuing an auto loan. But Cal Coast policy afforded discretion for underwriters to disregard a low FICO credit score whenever the car dealership provided a higher alternative credit score. (Ohta Decl., Ex. 7 p. 1.)

- **QCash Loans**. Cal Coast's unsecured no-credit-qualification-required cash loans were being issued predominantly to borrowers with verifiably low credit scores, yielding unacceptable credit and default risk. (Declaration of Carolyn Kissick (Kissick Decl.) at ¶ 3(b).)

- **Spanish-language Marketing**. Cal Coast marketed products in Spanish but then failed to provide Spanish-language disclosures and contracts. (Kissick Decl. ¶ 3(c).)

- **Deficient Policies**. Policies for unfair, deceptive or abusive acts or practices (subject to Dodd-Frank and state law), the Military Lending Act, the Equal Credit Opportunity Act, the Electronic Funds Transfer Act, the Home Mortgage Disclosure Act, the SAFE Act, the Real Estate Settlement Procedures Act, and dozens of federal and state laws, rules, and regulations are deficient, lacking any meaningful specifics and operationalization, and are often hollow platitudes leaving employees with unfettered discretion. (Kissick Decl. ¶ 3(d).)

Upon first discovering an ostensible lack of compliance controls at Cal Coast, SDCCU retained outside counsel Sheppard Mullin to analyze the flagged concerns. (Ohta Decl., Exs. 4–11.) Sheppard Mullin produced a series of memos, five of which are attached to the TRO Application, confirming that, *e.g.*, Cal Coast's technology loans "likely" violated Regulation Z at 12 C.F.R. § 1026 (Ohta Decl., Ex. 5 at p. 3) and that Cal Coast's indirect auto loan policies created "a significant risk of examiner criticism, enforcement, and potential litigation" under the Equal Credit Opportunity Act (15 U.S.C. § 1691). (Ohta Decl., Ex. 7 at pp. 2–3.)

In an effort to remedy the problems, SDCCU transparently provided the memos and presented its concerns to Cal Coast. But Cal Coast's response compounded concerns, indicating that the observed compliance failures were emblematic of broader inattentiveness and laxness. As an initial matter, Cal Coast did not deny in any meaningful way "that Cal Coast's business was non-compliant with applicable laws." (Ohta Decl., Ex. 2 at p. 7.) In particular:

- **Technology Loans**. Cal Coast conceded that it needed to "immediately file[] corrected Forms 5300" to come "in[to] compliance with … applicable law." (Ohta

Decl. Ex. 2 at 4; Lane Decl. ¶ 18.) And Cal Coast "discontinu[ed] the 'Technology Loan'." (Compl. at ¶ 75; Ohta Decl., Ex. 2 at p. 3 n.4.)

- **QCash Loans**. Cal Coast CEO Todd Lane acknowledged: "I share in your concerns" regarding the "QCash product/program," agreeing that a "more conservative posture is required here." (Kissick Decl., Ex. 2.)

- **Spanish-language Marketing.** Cal Coast conceded the issues with Spanish-language marketing and "revert[ed] to English-only consumer contracts and disclosures." (Compl. at ¶ 76; Ohta Decl., Ex. 2 at 3 n.4.)

Despite acknowledging (albeit downplaying) the existence of "risk," "legal noncompliance," and "legal violations" (Compl. at ¶¶ 54, 75) along with the need to "advance regulatory readiness" (Lane Decl. at ¶ 16), Cal Coast labelled these shortcomings a "distraction," *id.* Without further investigating or even explaining itself, Cal Coast conveyed that it did "not agree" with Sheppard Mullin's conclusions and would adopt only "*certain* targeted recommendations," to the extent Cal Coast deemed it "appropriate." (Compl. at ¶¶ 56–57, emphasis added.) For example:

- **Technology Loans.** Even though Cal Coast had violated Regulation Z since 2022, it grudgingly limited its remedy to three quarterly reports from fourth quarter 2024 to second quarter 2025. A month after receiving the Sheppard Mullin memo, Cal Coast's chief lending officer continued to question whether "these loans would truly need to be classified as 'student loans.'" (Kissick Decl., Ex. 1.)

- **QCash Loans**. While recognizing a failure to properly control risk, Cal Coast CEO Todd Lane pushed back and resisted prompt remediation: "I … suggest that we … not act yet on continuing or terminating that program." (Kissick Decl., Ex. 2.)

It was not difficult to identify the source of Cal Coast's hostility towards compliance: Cal Coast's president and CEO Todd Lane proclaimed to SDCCU that, as the current CEO of Cal Coast and future CEO of the combined entity, Mr. Lane's views "are the only ones that matter." (See Ohta Decl., Ex. 1 at p. 4 n.10.) In a September 23, 2025 meeting, having been alerted to serious legal risk created under his supervision, Mr. Lane berated SDCCU for suggesting increased compliance controls for the combined entity: "I run a dictatorship and I am the dictator. I do not care what you say or what you think. I do not care what anyone says or what anyone thinks. I am a dictator and I run a dictatorship and I do not care what you say or think." (Kissick Decl. at ¶ 6.) Cal Coast's Chief Audit & Risk Officer confirmed to SDCCU: "It doesn't matter what I say or what I think, he's going to do what he wants to do." (*Id.* at ¶ 7.)

Still, SDCCU responded by seeking a solution: SDCCU proposed allowing SDCCU leadership to undertake the daunting challenge of remediating Cal Coast's noncompliance and conforming its culture to SDCCU's policies, as envisioned by the Agreement. (Ohta Decl., Ex. 1 at p. 4; Compl. at ¶ 62.) Cal Coast's response, by contrast, was to file this suit and seek ex parte relief.

B. Procedural Background

On November 26, 2025, nearly two weeks after SDCCU issued its "Demand for Corrective Action/Termination Notice" providing Cal Coast thirty days to cure ongoing violations, Cal Coast's counsel emailed SDCCU's counsel at 8:18 PM PST, the night before Thanksgiving, to advise that Cal Coast had filed a Complaint the day prior. (Ohta Decl., Ex. A at 13.) Cal Coast did not serve any ex parte application concurrently with the Complaint, nor did its counsel indicate that any ex parte application would be forthcoming. (*Id.* at p. 12.)

Cal Coast first started seeking ex parte relief the next week, without notifying SDCCU. (See *id.* at pp. 10–11 [first discussing ex parte applications at 11:06 AM PST on December 2, 2025].) Notably, Cal Coast first "notified" SDCCU of its forthcoming ex parte applications *only after SDCCU asked Cal Coast* about multiple ex parte reservations that Cal Coast's counsel had already obtained and SDCCU's counsel had spotted. *See id.* Following that exchange and SDCCU's follow-up requests for notice of the specific relief sought, Cal Coast waited an additional day before filing its ex parte papers. (Compare TRO Appl'n (filed December 3, 2025), with Ohta Decl. at 6–10 [SDCCU's multiple requests for notice and notice of the ex parte applications].)

III. ARGUMENT

Ex parte relief is not appropriate "in any but the plainest and most certain of cases." (*Newsom v. Super. Ct.* (2020) 51 Cal. App. 5th 1093, 1097 (*Newsom*).) While "entry of any type of injunctive relief has been described as a delicate judicial power, to be exercised with great caution," that admonition "is doubly true when granting relief on an expedited basis using an ex parte request for a temporary restraining order rather than a properly noticed preliminary injunction." (*Ibid*.)

Here, the TRO request is sorely out of place because Cal Coast: (1) delayed nearly four weeks before seeking emergency relief and then failed to comply with the ex parte rules; (2) improperly seeks a mandatory injunction to alter (not preserve) the status quo; (3) has not shown

a probability of prevailing on the merits; (4) has not shown that imminent, irreparable harm will occur absent the TRO; and (5) has not shown that any alleged harm outweighs the harm SDCCU would suffer from the TRO. For each and all these reasons, the TRO should be denied.

A. Cal Coast Is Not Entitled To "Ex Parte Relief" Given Its Weeks-Long Delay And Violation Of The Ex Parte Rules

Nearly four weeks have passed since the parties ceased proceeding towards consummation of the merger. (See Ohta Decl., Ex. 1.) A party that waited a month before seeking judicial relief has refuted its own ensuing claim that the same persisting state of affairs poses newfound emergency. (*O'Connell v. Superior Court* (2006) 47 Cal. App. 4th 1452, 1481 [collecting cases].)

Moreover, Cal Coast violated California Rules of Court rule 3.1204(a) by failing to provide "specificity [as to] the nature of the relief to be requested." Cal Coast's notice stated only that it would seek "an order temporarily restraining SDCCU from terminating the merger agreement." (Ohta Decl., Ex. A at p. 10.) But the TRO Application requests both a TRO and an order to show cause regarding preliminary injunction, and seeks relief from the statutory bond requirement. (TRO Appl'n at p. 2; Plf.'s [Proposed] Order at p. 3.) Nor did Cal Coast's notice specify the "date, time, and place for the presentation of the application," forcing SDCCU to discover this information from the public docket. Courts enforce ex parte notice requirements to ensure fairness and discourage gamesmanship. This alone affords ready grounds for denying this application.

B. Cal Coast Seeks A Mandatory Injunction That Is Unavailable As A TRO

Mandatory injunctions, compelling a party to take affirmative action rather than merely maintain the status quo, are "rarely granted" and "not permitted except in extreme cases." (*Teachers Ins. & Annuity Ass'n v. Furlotti* (1999) 70 Cal. App. 4th 1487, 1493 (*Teachers Ins.*).) Cal Coast vastly overreaches here by seeking the most extreme relief at the earliest stage.

A TRO is meant to maintain the existing state of affairs while the court considers the merits of the dispute. (See *Costa Mesa City Employees' Ass'n v. Costa Mesa* (2012) 209 Cal. App. 4th 298, 305.) Here, Cal Coast's requested relief would do the opposite. Since SDCCU issued its Notice nearly four weeks ago (Ohta Decl., Ex. 1), the state of affairs has been and remains that the merger is not proceeding. A pro-merger mandatory injunction would upend that status quo and

compel SDCCU to resume integration work and take affirmative steps toward consummating the very same merger that SDCCU has invoked its contractual right to terminate, lest adverse legal exposure result. (See *Davenport v. Blue Cross* (1997) 52 Cal. App. 4th 435, 447 [injunction is "mandatory if it compels performance of an affirmative act that changes the position of the parties"].)

The injunction Cal Coast seeks is quintessentially mandatory because it would require SDCCU to devote substantial resources and personnel to merger consummation activities for a transaction SDCCU has concluded cannot proceed consistent with both the Agreement and governing law. Cal Coast in substance concedes the point when it asserts that, "if the TRO is issued—[SDCCU] will simply proceed on the existing terms of the parties' Merger Agreement." (TRO Appl'n at p. 20.) If ordering a party to proceed towards a merger is not mandatory, nothing is.

Even when sought through a properly noticed preliminary injunction motion, mandatory injunctions are "not permitted except in extreme cases where the right thereto is clearly established." (*Teachers Ins.*, *supra*, 70 Cal. App. 4th at p. 1493.) This case is on the opposite side of the spectrum from the "extreme" one where a movant's rights are "clearly established." Cal Coast's material breaches are virtually conceded and SDCCU had multiple, obvious grounds to terminate as it did.

C. <u>Cal Coast Is Not Entitled To Any Injunction</u>

Even assuming Cal Coast could overcome the above-referenced threshold defects, it still cannot obtain injunctive relief because it has not shown and cannot show that (1) it is likely to prevail on the merits, (2) it will suffer immediate, irreparable harm if SDCCU is not enjoined, and (3) any alleged harm outweighs the harm SDCCU would suffer from grant of the requested TRO.

1. <u>Cal Coast Has Not Shown A Probability Of Prevailing On The Merits</u>

Cal Coast argues for relief on the theory that it need only show "some possibility" of prevailing on the merits. (TRO Appl'n at p. 14.) But "it is well established that granting a preliminary injunction without a showing of a likelihood of success on the merits is an abuse of discretion and will be reversed." (*Kings Cty. Farm Bureau v. State Water Res.* (2025) 338 --- Cal.App.5th ---, Cal. Rptr. 3d 499, 512.) Not only has Cal Coast failed to show the requisite

likelihood of prevailing, it is much likelier to lose.

a. Cal Coast Breached Its Legal Compliance Representations

Cal Coast violated its representation that it conducts its business in compliance with all applicable laws. (Agreement § 2.5.) During integration planning, SDCCU discovered numerous compliance deficiencies that Cal Coast had not disclosed. (*Supra* § II(A); Ohta Decl., Exs. 4-11.)

Given the paramount importance of legal compliance for a credit union, Cal Coast's senior officers, including CEO Todd Lane, knew or should have known of these compliance issues upon exercising reasonable care. Even now, however, Cal Coast has failed to institute corrective policies sufficient to cure these violations. (*Supra* § II(A); Ohta Decl., Ex. 1 p. 2.) The upshot is all too clear: this pattern of violations creates grave exposure to regulatory enforcement actions, litigation, and consent decrees—precisely the sort of material inaccuracy that justifies termination for cause.

Cal Coast's contrary arguments are unavailing. ***First***, the Agreement does not require litigation to establish breach. Section 2.5 requires compliance with all applicable laws, full stop.

Second, Cal Coast disclaims knowledge because the compliance issues were not discovered during SDCCU's initial diligence. But this is irrelevant. Cal Coast cannot assert that it "need not be held to [its representations] because [SDCCU's] due diligence did not uncover their falsity." (See *Akorn v. Fresenius Kabi* (Del. Ch. Oct. 1, 2018) 2018 WL 4719347, at *77 (*Akorn*), *aff'd*, 198 A.3d 724 (Del. 2018).) In any event, the initial diligence was conducted by accounting firms, not lawyers. (Compl. at ¶ 3.) Section 2.7 specifically contemplates that SDCCU will engage in a post-signing diligence "investigation" to "reveal[] any material violation of … legal or compliance issues."

Third, to the extent Material Adverse Change is required (under Section 2.2, but not under Section 2.5), that standard, too, is satisfied. In Section 1.1.16, the Merger Agreement defines Material Adverse Change as any change "reasonably expected to have a material negative financial impact" on the Combined Credit Union. Cal Coast's pervasive compliance violations in a highly regulated industry are recipes for regulatory enforcement, litigation, judgments, or consent decrees—all of which pose material negative financial impact. (Cf. *Akorn*, 2018 WL 4719347, at *3 [finding Material Adverse Effect where "representations regarding [company's] compliance with regulatory requirements were not true and correct"].

Even short of those specters, however, the evident lack of compliance and controls impugns Cal Coast's financial picture: identified credit risks and inadequate reserves implicate the fundamental soundness of a credit union, which is presumably why Cal Coast's own CEO said he "share[d] in [SDCCU's] concerns" specifically concerning the "QCash product/program." (Kissick Decl., Ex. 2.) The severity, numerosity, persistence, and nature of the failures SDCCU observed from the outset of the integration process effectively warned that Cal Coast's financial reporting was materially deficient—as would be the financials of the merged entity. (Kissick Decl. at ¶ 4.)

Finally, Cal Coast blinks reality by arguing that SDCCU's Notice was "purely pretextual": integration meetings, documents, and revelations made all too clear that Todd Lane would not, in fact, steer the combined entity true to "conservative banking principles," as he had pledged. Nor were his officers empowered to right the ship and steer it into compliance; in their own words, Mr. Lane was "going to do what he wants to do." (Kissick Decl. at ¶ 7.) So SDCCU offered the only satisfying solution: substituting the leadership that had always been scrupulously committed to compliance. Far from relying on "pretext," SDCCU proposed what it did in the utmost good faith—not to "re-trade" the deal but to restore the essential premises on which the deal was founded.

b. Cal Coast Violated Other Key Terms Of The Agreement

Section 2.12.1 – NCUA Disclosures. Cal Coast represented it "has filed all material reports … required to be filed by Cal Coast with the [NCUA]" and each filing "complied in all material respects with the applicable requirements." (Agreement at § 2.12.1.) To the contrary, however, SDCCU discovered Cal Coast failed to report student loans and modifications in its quarterly Forms 5300. (*See supra* at Part II(A); Ohta Decl., Ex. 1 at p. 3.) Cal Coast admitted as much and filed *partial* corrections, but *without reaching all prior years or capturing loan modifications*. (See TRO Appl'n at p. 15; Ohta Decl., Ex. 1 at p. 3 n.7.)

Section 1.2 – SDCCU Policies. Section 1.2 of the Agreement requires that "policies of the entity formed by the Merger … shall be the … policies … of SDCCU." Cal Coast modified SDCCU's Board policy comparative write-ups so as to evade regulatory review of its non-compliant policies and practices. (Ohta Decl., Ex. 1 at p. 3.) Cal Coast's argument that it only edited policy "descriptions" is obfuscation—the modifications reveal Cal Coast's intent to adopt SDCCU's

policies in name only, by retaining the same "CCCU[] operational documents, including detailed procedures and program-level guidance," that broke from SDCCU policies along with best practices and legal requirements. (Kissick Decl. at ¶ 9.) Cal Coast anticipatorily breached by "indicating [it] will not or cannot substantially perform." (*Guerrieri v. Severini* (1958) 51 Cal. 2d 12, 18.)

Section 4.2 – Symitar System. The Agreement requires the parties "to retain SDCCU's on-premises Symitar core processing system for the Combined Credit Union." (Agreement at § 4.2.) Yet, Cal Coast "ruled out" maintaining SDCCU's Symitar system "as strategically unsuitable"—even though SDCCU's system has customized code integral to SDCCU's operations and regulatory compliance. (Ohta Decl., Ex. 1 at p. 3; Kissick Decl. at ¶ 8; *id.* Ex. 3 at p. 1.) This too constitutes anticipatory breach.

c. SDCCU Properly Invoked Article IX To Terminate The Agreement

Section 9.1.3 authorizes SDCCU to terminate for "Cause" including any "failure of Cal Coast to comply in any material respect with any of its covenants or agreements … and such substantial or material breach has not been cured by Cal Coast within a thirty (30) day period after notice from SDCCU." As explained above, Cal Coast is in substantial and material breach. Nor can these misrepresentations be cured—Cal Coast cannot retroactively make true representations that were false when made or undo past nondisclosures. On November 14, 2025, SDCCU gave Cal Coast notice and 30 days to cure. (Ohta Decl., Ex. 1.) Cal Coast has not cured the violations, and, what is more, has made very clear that it has neither the intention nor the capacity to cure them.

Cal Coast argues that SDCCU must continue performing until May 2026 because SDCCU's obligations are subject to conditions precedent that must be satisfied "on or prior to the Merger Date." (TRO Appl'n at p. 18 [citing Agreement at § 6.1].) But this argument conflates two separate contractual provisions. Section 6.1 governs SDCCU's performance obligations and makes those obligations "expressly subject" to conditions precedent, including that Cal Coast's representations "be true and correct" both at signing and at the Merger Date. Section 9 is distinct; it establishes a standalone termination regime whereby the Agreement "may be terminated ... in no other manner" than as specified. Section 9.1.3 permits termination when Cal Coast "is in substantial or material breach"—present tense. Once SDCCU discovered Cal Coast's breaches, termination rights

attached. Cal Coast's reading would render Section 9.1.3 meaningless by preventing any termination before the Merger Date. Courts eschew such interpretations. (*Founding Members v. Newport Beach Country Club, Inc.* (2003) 109 Cal. App. 4th 944, 957.)

Cal Coast also argues SDCCU breached first by initiating a work stoppage. (TRO Appl'n at p. 18.) This misidentifies the breaching party. Cal Coast materially breached through nondisclosures and false representations. SDCCU's attempt to secure Cal Coast's performance, or otherwise terminate, was justified upon discovering these breaches. "When a party's failure to perform a contractual obligation constitutes a material breach of the contract, the other party may be discharged from its duty to perform under the contract." (*Brown v. Grimes* (2011) 192 Cal. App. 4th 265, 277.) Once SDCCU learned of Cal Coast's breaches, therefore, SDCCU's continued obligations were discharged. (See Agreement at § 6.1.)

2. Cal Coast Has Not Shown Imminent, Irreparable Harm

California courts routinely deny ex parte applications where the applicant fails to present competent evidence establishing imminent, irreparable harm necessitating immediate relief. (See, e.g., *Newsom, supra*, 51 Cal. App. 5th at p. 1096 [reversing grant of ex parte relief where applicant "failed to present competent evidence establishing imminent harm … requiring immediate action"].) Conclusory allegations are insufficient. (*E.H. Renzel Co. v. Warehousemen's Union I.L.A. 38-44* (1940) 16 Cal. 2d 369, 373.) That essential showing is categorically lacking here, for three reasons.

First, SDCCU delivered its Notice on November 14, 2025, invoking its right to terminate for Cause under Section 9.1.3. (Ohta Decl., Ex. 1.) There is no impending action to restrain. "[I]t is elementary that an injunction cannot be granted to stay an act already committed." (*Blackmore Inv. Co. v. Johnson* (1931) 213 Cal. 148, 150–151.) "The office of the writ is a preventive one and it is to be used to restrain a wrongdoer, 'not to … compel him to undo it.'" (*People v. Paramount Citrus Ass'n* (1957) 147 Cal. App. 2d 399, 412–413.)

The only effect of a TRO would be to prevent that termination from becoming effective on December 22. But the termination's effectiveness does not change the parties' current positions or postures. As of today, the status quo is that the parties have paused all workstreams. (Ohta Decl., Ex. 1.) Whether the termination formally becomes "effective" on December 22 makes no practical

difference. Cal Coast has not identified any additional action SDCCU is poised to take that would cause Cal Coast immediate, irreparable harm.

Second, the Merger Agreement contains no drop-dead date, which means Cal Coast's rights are fully preserved absent emergency relief. A drop-dead date (also called an "outside date") in a merger agreement typically permits either party to terminate the transaction without cause if closing has not occurred by a specified deadline. Such provisions sometimes pose genuine exigencies that can justify expedited relief. (See *D.R. Horton v. Bunting Macks* (Del. Ch. July 16, 2024) 2024 WL 3426838, at *2 n.5.) Far from containing any such provision, Section 4.1 expressly builds in latitude for the closing, providing only that the "contemplated date for consummation … is anticipated to be on or about May 1, 2026 *or as soon thereafter as practicable*." As such, there is nothing talismanic about the May 1, 2026 date and no particular consequence to sliding past it.

Cal Coast identifies nothing that would prevent the parties from proceeding with the merger "as soon ... as practicable" if Cal Coast ultimately prevails. The Court could, by hypothesis, order the parties to proceed with the transaction at any time. Cal Coast's vague allegations of "uncertainties" and "disruptions to the integration process" (TRO Appl'n at p. 20) underscore the lack of any concrete, imminent harm. This is not the typical TRO case where immediate action is required to preserve a right that would otherwise expire or where delay would cause specific, grave injury. Cal Coast identifies no regulatory approval that will expire, financing that will lapse, or third-party consent that will be withdrawn if this dispute proceeds to final judgment. And, as noted, SDCCU would gladly accommodate and embrace expedition of the proceedings ahead.

Third, Cal Coast has failed to show its alleged harm would not be compensable through monetary damages. The Court should not lightly presume irreparable harm, particularly where the Agreement does not provide for injunctive relief or specific performance. "Specific performance of a contract will not be compelled when an adequate remedy exists at law, and if monetary damages afford adequate relief and are not extremely difficult to ascertain, an injunction cannot be granted." (*Thayer Plymouth Center v. Chrysler Motors Corp.* (1967) 255 Cal. App. 2d 300, 306.) Cal Coast has not attempted to show—and cannot show—that a legal remedy would be inadequate here.

Nor has Cal Coast shown that damages would defy quantification. Cal Coast itself maps the anticipated benefits of the merger in its Complaint, describing the Combined Credit Union's anticipated asset size ($13.5 billion), membership base (600,000+ members), and branch network (65+ branches), as well as "substantial economies of scale expected to lower operating costs, expand product breadth, and reduce barriers to credit access." (Compl. at ¶ 27.) Financial experts routinely value lost merger synergies, foregone economies of scale, and unrealized business opportunities. Cal Coast does not begin to explain why compensatory damages would be inadequate or unattainable if it ultimately prevails on its breach of contract claim. "[T]he key word in this consideration is irreparable. Mere injuries, however substantial, in terms of money, time and energy necessarily expended in the absence of a stay, are not enough." (*Int'l Medcom, Inc. v. S.E. Int'l, Inc.* (N.D. Cal. Dec. 2, 2015) 2015 WL 7753267, at *5.)

Cal Coast misplaces reliance on *Jay Bharat Developers v. Minidis* (2008) 167 Cal. App. 4th 437 (*Jay Bharat*) for the proposition that the Court "can 'presume irreparable injury.'" (TRO Appl'n at p. 19.) Courts presume injury only where the probability of success is exceptionally high, such as where the facts are undisputed by the party opposing injunctive relief. (*Jay Bharat* at p. 444.) Cal Coast has made no such showing. Moreover, *Jay Bharat* involved a preliminary injunction on noticed motion, not an ex parte TRO, and concerned loss of trademark control—a classically irreparable injury. (See *id.* at pp. 444–45.) Cal Coast's alleged harm, by contrast, is termination of a business transaction at the expense of monetary interests. Cal Coast identifies no authority applying the presumption of irreparable harm to a case like this.

3. The Balance of Harms Tips Decisively In SDCCU's Favor

Cal Coast asserts that "SDCCU stands to lose nothing if the TRO is issued—it will simply proceed on the existing terms of the parties' Merger Agreement." (TRO Appl'n at p. 20.) This assertion gainsays the severe harm SDCCU faces.

A TRO would force SDCCU, its officers, and its staff to turn a blind eye to compliance problems they have identified, they have investigated, and they find gravely concerning. During integration planning, SDCCU learned that Cal Coast omitted material information from regulatory filings, issued financial products in violation of regulations, engaged in unfair lending practices,

failed to disclose compliance irregularities, and materially misrepresented multiple aspects of its operations. Compelling SDCCU to proceed despite these concerns would create exposure for SDCCU and threaten lasting harm to its own compliance practices and culture, along with morale.

Moreover, compelling SDCCU to continue integration activities would create entanglement that may later prove difficult or even impossible to unwind. Merging two financial institutions involves the intertwining of systems, personnel, operations, and member relationships. If SDCCU is forced to proceed with integration and later prevails on its defenses, the resulting entanglement cannot be readily undone. (*Monty v. Leis* (2011) 193 Cal. App. 4th 1367, 1372 ["Mergers … are often followed by a commingling of assets and other substantial changes in the structures of the enterprises involved. Once those changes occur, it is often impossible … to compel a return to the status quo …." (internal modifications omitted)].) The harm to SDCCU from forced integration under these circumstances would itself be irreparable. At a minimum, SDCCU's investment of time and resources in a merger that appears doomed would be wasteful in the extreme.

By contrast, denying the TRO preserves Cal Coast's ability to obtain all the relief it seeks if it prevails. As explained above, Cal Coast will continue to seek specific performance, and the absence of a drop-dead date means no rights will be lost over the course of intervening proceedings. All told, the balance of hardships tips decisively in SDCCU's favor.

D. Any Injunctive Relief Should Be Secured By A Substantial Bond

If a TRO issues and SDCCU ultimately prevails, SDCCU will have incurred substantial costs that should never have been expended, including the costs of merger-related activities and the expense of unwinding wasted integration work. There are also "attorney's fees and expenses to be incurred in either prosecuting an appeal of the preliminary injunction, or defending at trial against those causes of action upon which the preliminary injunctive relief had been granted." (*Abba Rubber Co. v. Seaquist* (1991) 235 Cal. App. 3d 1, 16.) If it were to grant Cal Coast's requested TRO (which it should not), the Court should require a bond of no less than $10 million to secure SDCCU's damages. (See Code Civ. Proc. § 529.)

IV. CONCLUSION

Cal Coast's ex parte Application should be denied.

Dated: December 11, 2025

QUINN EMANUEL URQUHART & SULLIVAN, LLP

By: */s/ Derek L. Shaffer*

Michael B. Carlinsky (*pro hac forthcoming*)
Derek L. Shaffer
Christopher Tayback
J'me K. Forrest
Jonathan E. Feder (*pro hac forthcoming*)

HOLLAND & KNIGHT LLP

Sarah Kelly-Kilgore
Amir A. Shakoorian
Zachary J. Watson

Attorneys for Defendant
SAN DIEGO COUNTY CREDIT UNION