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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
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9 George Calcut, *et al.*,

10 Plaintiffs,

11 v.

12 Paramount Residential Mortgage Group  
13 Incorporated, *et al.*,

14 Defendants.

No. CV-22-01215-PHX-JJT

**ORDER**

15 At issue is Plaintiffs George and Geri Calcut's Motion for Partial Summary  
16 Judgment & Memorandum of Law in Support Thereof (Doc. 46, "Pls.' MSJ") to which  
17 Defendants Paramount Residential Mortgage Group, Inc. ("PRMG"), and Cenlar FSB filed  
18 an Opposition (Doc. 65) and Plaintiffs filed a Reply (Doc. 69). Also at issue is Defendants'  
19 Motion for Summary Judgment (Doc. 50, "Defs.' MSJ") to which Plaintiffs filed an  
20 Opposition (Doc. 63) and Defendants filed a Reply (Doc. 67). The Court finds these matters  
21 appropriate for decision without oral argument. *See* LRCiv 7.2(f). For the reasons that  
22 follow, the Court finds that Defendants are entitled to summary judgment.

23 **I. BACKGROUND**

24 In 2020, Plaintiffs obtained a mortgage loan from Defendant PRMG. The loan was  
25 sub-serviced by Defendant Cenlar and guaranteed by the Department of Veterans Affairs  
26 ("VA"). Eventually, the loan became eligible for forbearance under Section 4022 of the  
27 Coronavirus Aid, Relief, and Economic Security ("CARES") Act. *See* 15 U.S.C. § 9056.  
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1 Plaintiffs requested and received forbearance, which, after two approved extensions, was  
2 scheduled to run through August 2021. (Docs. 51-5, 51-6, 51-7.)

3 On May 11, 2021, Defendants sent Plaintiffs a letter explaining “several mortgage  
4 assistance options that may be available to [them] after the forbearance period.” (Doc. 45-4  
5 at 30.) Later that month, Mr. Calcut communicated to Cenlar that he may be interested in  
6 ending the forbearance early and beginning a streamlined loan modification. (Doc. 45-4 at  
7 35–37.)

8 On June 1, 2021, Defendants sent Plaintiffs a letter stating that they had been  
9 approved for a VA Disaster Modification with a three-month trial period plan. (Doc. 51-8.)  
10 As the letter explained, this modification would increase Plaintiffs’ interest rate and  
11 monthly principal payments. (Doc. 51-8 at 6.) The letter also stated that Plaintiffs were  
12 “un-evaluated” for any other type of modification or program. (Doc. 51-8 at 3–4.) Plaintiffs  
13 began completing the trial period payments.

14 Meanwhile, Cenlar erroneously reported to the credit bureaus that Plaintiffs’ loan  
15 was delinquent for the month of July 2021. Mr. Calcut submitted a complaint to the  
16 Consumer Financial Protection Bureau (“CFPB”) on July 26, 2021, and ten days later,  
17 Defendants acknowledged the error in a letter. (Docs. 45-5 at 39–44.) On August 16, 2021,  
18 Cenlar contacted the credit bureaus to correct the errant reporting. (Doc. 51-12.) But  
19 Plaintiffs allege that by then, their credit scores suffered, they could not increase their credit  
20 lines, and Mrs. Calcut’s credit card was cancelled.

21 On September 10, 2021, Mr. Calcut submitted another complaint to the CFPB, this  
22 time asking the CFPB to determine whether he should accept the permanent loan  
23 modification and to assure him that PRMG’s offer was “legitimate” and in compliance with  
24 the CARES Act. (Doc. 45-5 at 47–50.) Five days later, Plaintiffs accepted the permanent  
25 modification by signing the loan modification agreement. (Doc. 51-10.) On October 26,  
26 2021, Defendants sent Plaintiffs a letter in response to the September complaint explaining,  
27 in sum, that Mr. Calcut was offered and agreed to the terms of the VA Disaster  
28 Modification plan. (Doc. 45-5 at 52.)

1 In July 2022, Plaintiffs brought this suit alleging that Defendants: (1) violated the  
2 Real Estate Settlement Procedures Act, 12 U.S.C. § 2605 (“RESPA”); (2) violated the  
3 Arizona Consumer Fraud Act, A.R.S. 44-1521, *et seq.* (“ACFA”); and (3) committed  
4 negligent performance of an undertaking. (Doc. 1-3, “Compl.”) Plaintiffs seek summary  
5 judgment on only the RESPA claim. Defendants seek summary judgment on all claims.  
6 The Court will address both motions.

## 7 **II. LEGAL STANDARD**

8 Under Rule 56(c) of the Federal Rules of Civil Procedure, summary judgment is  
9 appropriate when: (1) the movant shows that there is no genuine dispute as to any material  
10 fact; and (2) after viewing the evidence most favorably to the non-moving party, the  
11 movant is entitled to prevail as a matter of law. Fed. R. Civ. P. 56; *Celotex Corp. v. Catrett*,  
12 477 U.S. 317, 322–23 (1986); *Eisenberg v. Ins. Co. of N. Am.*, 815 F.2d 1285, 1288–89  
13 (9th Cir. 1987). Under this standard, “[o]nly disputes over facts that might affect the  
14 outcome of the suit under governing [substantive] law will properly preclude the entry of  
15 summary judgment.” *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). A  
16 “genuine issue” of material fact arises only “if the evidence is such that a reasonable jury  
17 could return a verdict for the nonmoving party.” *Id.*

18 In considering a motion for summary judgment, the court must regard as true the  
19 non-moving party’s evidence, if it is supported by affidavits or other evidentiary material.  
20 *Celotex*, 477 U.S. at 324; *Eisenberg*, 815 F.2d at 1289. However, the non-moving party  
21 may not merely rest on its pleadings; it must produce some significant probative evidence  
22 tending to contradict the moving party’s allegations, thereby creating a material question  
23 of fact. *Anderson*, 477 U.S. at 256–57 (holding that the plaintiff must present affirmative  
24 evidence to defeat a properly supported motion for summary judgment); *First Nat’l Bank*  
25 *of Ariz. v. Cities Serv. Co.*, 391 U.S. 253, 289 (1968).

26 “A summary judgment motion cannot be defeated by relying solely on conclusory  
27 allegations unsupported by factual data.” *Taylor v. List*, 880 F.2d 1040, 1045 (9th Cir.  
28 1989). “Summary judgment must be entered ‘against a party who fails to make a showing

1 sufficient to establish the existence of an element essential to that party’s case, and on  
2 which that party will bear the burden of proof at trial.” *United States v. Carter*, 906 F.2d  
3 1375, 1376 (9th Cir. 1990) (quoting *Celotex*, 477 U.S. at 322).

4 **III. ANALYSIS**

5 **A. The RESPA Claim**

6 Both parties move for summary judgment on the RESPA claim. The RESPA  
7 imposes several obligations on mortgage loan servicers, two of which are central to  
8 Plaintiffs’ claim. First, it provides that “[a] servicer of a federally related mortgage shall  
9 not . . . fail to take timely action to respond to a borrower’s requests to correct errors  
10 relating to allocation of payments, final balances for purposes of paying off the loan, or  
11 avoiding foreclosure, or other standard servicer’s duties.” 12 U.S.C. § 2605(k)(1)(C). And  
12 second, the Act prohibits a servicer from “fail[ing] to comply with any other obligation  
13 found by the Bureau of Consumer Financial Protection, by regulation, to be appropriate to  
14 carry out the consumer protection purposes of [the RESPA].” 12 U.S.C. § 2605(k)(1)(E).

15 Plaintiffs allege three violations under subsection (C): (1) Defendants breached their  
16 duty to “take timely action to avoid foreclosure”; (2) Defendants failed to offer Plaintiffs  
17 all available loss mitigation options instead of “steering” them toward the VA Disaster  
18 Modification; and (3) Defendants breached their duty “to take timely and appropriate  
19 action related to the [errant] credit reporting.” (Compl. ¶¶ 69–71.)

20 In both motions for summary judgment, the parties focus on whether Defendants  
21 breached a “standard servicer’s duties” and whether their actions qualify as “error.” (Pls.’  
22 MSJ at 4–14; Defs.’ MSJ at 5–7.) But it is not necessary to reach those questions to dispose  
23 of Plaintiff’s allegations. The fatal flaw in Plaintiffs’ arguments seems to be rooted in a  
24 misreading of subsection (C) that would have it impose a duty on servicers to correct  
25 certain errors. The plain language of this subsection, however, mandates only that a  
26 servicer “*take timely action to respond* to a borrower’s requests to correct [certain] errors.”  
27 12 U.S.C. § 2605(k)(1)(C) (emphasis added). Thus, subsection (C) does not require a  
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1 servicer to abide by standard servicer’s duties or correct errors relating to those duties, but  
2 only to respond timely to certain requests.

3 Accordingly, Plaintiffs’ first allegation fails as a matter of law because subsection  
4 (C) does not require Defendants to “take timely action to avoid foreclosure.”<sup>1</sup> Similarly,  
5 Plaintiffs’ second allegation fails because nothing in subsection (C) requires Defendants to  
6 offer Plaintiffs “all loss mitigation options.” Indeed, as Defendants aptly point out, the  
7 CFPB has expressly declined to impose “a duty on servicers to provide any borrower with  
8 any specific loss mitigation option.” 12 C.F.R. § 1024.41(a). (Defs.’ MSJ at 6.) Plaintiffs  
9 respond that this point mischaracterizes their argument; they do not argue that Defendants  
10 had a duty to offer a specific loss mitigation option, but that Defendants had a duty to  
11 evaluate Plaintiffs for all loss mitigation options available to them. (Doc. 63 at 4–5.)  
12 Subsection (C), however, does not impose either duty.

13 Plaintiffs’ third theory under subsection (C) is that Defendants failed “to take timely  
14 and appropriate action related to the [errant] credit reporting.” (Compl. ¶ 70.) Plaintiffs  
15 argue that by incorrectly reporting the loan as delinquent, Defendants violated their  
16 standard servicer duties under the CARES Act, and Defendants failed to promptly correct  
17 the error after they received “notice” from Plaintiffs. (Pls.’ MSJ at 5.)

18 First, as mentioned, subsection (C) does not require a servicer to abide by standard  
19 servicer duties. Furthermore, the word “appropriate” appears nowhere in subsection (C).  
20 The subsection mandates timely responses to requests, but it is not concerned with the  
21 propriety of those responses. Moreover, the subsection requires timely responses only to  
22 “a borrower’s requests to correct errors.” 12 U.S.C. § 2605(k)(1)(C). Plaintiffs have  
23 identified no evidence in the record of such a request. Although Plaintiffs cite their CFPB  
24 complaint to show that they provided Defendants “notice,” nothing in the RESPA suggests  
25 that a complaint to a third party constitutes a “request” within the meaning of subsection  
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27 <sup>1</sup> The Court also notes that Plaintiffs do not allege any foreclosure occurred, and they  
28 only briefly allege, without any factual support, that they “now face the real risk of  
foreclosure.” (Compl. ¶ 71.)

1 (C).<sup>2</sup> Even if the complaint were a sufficient request, the subsection contemplates “requests  
2 to correct errors relating to . . . standard servicer’s duties,” and Plaintiffs fail to show that  
3 credit reporting errors are such errors. Plaintiffs argue that the CARES Act prohibited such  
4 reporting, and thus Defendants breached “their standard servicing duties under the CARES  
5 Act.” (Pls.’ MSJ at 7–8.) But Plaintiffs fail to explain how duties imposed by the CARES  
6 Act are “standard servicer’s duties.” And nothing in the RESPA or in the CFPB’s  
7 regulations suggests that credit reporting errors relate to a standard servicer’s duties.<sup>3</sup> *See*  
8 12 C.F.R. § 1024.35(b). Accordingly, this allegation, like Plaintiffs’ others under 12 U.S.C.  
9 § 2605(k)(1)(C), fails as a matter of law.

10 Plaintiffs’ final RESPA allegation is that Defendants violated 12 U.S.C.  
11 § 2605(k)(1)(E), which requires servicers to comply with obligations set forth in CFPB  
12 regulations. (Compl. ¶ 68.) In their motion, Plaintiffs allege violations of several regulatory  
13 provisions.

14 Plaintiffs first point to 12 C.F.R. § 1024.41(c)(1)(i), which requires servicers to  
15 “[e]valuate the borrower for all loss mitigation options available to the borrower.” (Pls.’  
16 MSJ at 12.) They also cite 12 C.F.R. § 1024.41(c)(1)(ii), which requires servicers to notify  
17 borrowers of their right to appeal the denial of a loss mitigation option. (Pls.’ MSJ at 12.)  
18 Plaintiffs allege that Defendants failed to comply with either provision. However, these  
19 provisions only apply “if a servicer receives a complete loss mitigation application more  
20 than 37 days before a foreclosure sale.” 12 C.F.R. § 1024.41(c)(1). Plaintiffs proffer no  
21 evidence of such an application. Defendants notified Plaintiffs several times that their  
22 forbearance plan was “based on information that [Plaintiffs] provided verbally or through  
23 an evaluation of an incomplete mortgage assistance application,” each time reminding

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25 <sup>2</sup> PRMG also instructed Plaintiffs to send all qualified written requests and  
26 notifications of error directly to PRMG. (Doc. 45-4 at 73–74.)

27 <sup>3</sup> One court has commented that “Congress and the [CFPB] are surely well-aware that  
28 credit reporting may occur, yet this activity is not expressly identified anywhere as a  
‘servicing duty’ or servicing ‘error.’ This may be because the Fair Credit Reporting Act is  
a remedial statutory scheme that covers credit reporting errors.” *Richissin v. Rushmore  
Loan Mgmt. Servs., LLC*, No. 20 CV 871, 2020 WL 7024848, at \*4 (N.D. Ohio Nov. 30,  
2020).

1 them that they had “the option to submit a complete mortgage assistance application to  
2 receive an evaluation for all options.” (Doc. 45-4 at 15, 24, 32.) Plaintiffs proffer no  
3 evidence that, when they chose to pursue a modification, they submitted a “complete loss  
4 mitigation application more than 37 days before a foreclosure sale,” such that the  
5 protections under 12 C.F.R. § 1024.41(c)(1) would apply.

6 Plaintiffs also assert that Defendants breached their duties under 12 C.F.R.  
7 § 1024.38(b)(1)(i)–(iii), (2)(i), and (2)(v). (Pls.’ MSJ at 12.) These provisions set forth  
8 certain objectives, and 12 C.F.R. § 1024.38(a) requires servicers to “maintain policies and  
9 procedures that are reasonably designed to achieve [those] objectives.” Thus, in arguing  
10 that Defendants breached their duties under 12 C.F.R. § 1024.38(b), Plaintiffs misinterpret  
11 the regulation. Subsection (b) does not impose any duties. Rather, subsection (a) imposes  
12 the duty to maintain policies and procedures that are reasonably designed to achieve the  
13 objectives in subsection (b). Plaintiffs do not challenge Defendants’ policies or procedures  
14 in their motion. And in their complaint, Plaintiffs’ only reference to Defendants’ policies  
15 and procedures is that “Cenlar knows it has . . . credit reporting problems but failed to put  
16 in proper policies, practices, and procedures to prevent the negative consequences of its  
17 actions,” which is not an objective under subsection (b). (Compl. ¶ 50.) Plaintiffs’  
18 allegations under 12 C.F.R. § 1024.38(b) therefore fail as a matter of law.

19 Plaintiffs proffer no evidence from which a reasonable jury could find that  
20 Defendants violated 12 U.S.C. § 2605(k)(1)(C) or (E). Therefore, the Court will deny  
21 Plaintiffs’ Motion for Summary Judgment and grant Defendants’ Motion for Summary  
22 Judgment as it relates to the RESPA claim.

## 23 **II. The ACFA Claim**

24 Defendants also move for summary judgment on the ACFA claim. Plaintiffs allege  
25 that (1) Defendants violated the ACFA by performing a “bait and switch” on Plaintiffs to  
26 induce them into initiating the VA Disaster Modification despite there being more  
27 favorable loss mitigation options available to them; (2) Defendants violated the ACFA by  
28 concealing that more favorable options existed before Plaintiffs finalized the VA Disaster

1 Modification; and (3) PRMG violated the ACFA by concealing Cenlar’s role in servicing  
2 the loan. (Compl. ¶¶ 77–82.)

3 As a consumer protection statute, the ACFA is “a broad act intended to eliminate  
4 unlawful practices in merchant-consumer transactions.” *Holeman v. Neils*, 803 F. Supp.  
5 237, 242 (D. Ariz. 1992) (internal citation omitted). The ACFA prohibits any “deception,  
6 deceptive act or practice, fraud, false pretense, false promise, misrepresentation, or  
7 concealment, suppression or omission of any material fact with intent that others rely on  
8 such concealment, suppression or omission, in connection with the sale or advertisement  
9 of any merchandise whether or not any person has in fact been misled, deceived or damaged  
10 thereby.” A.R.S. § 44-1522. “The elements of a private cause of action [under the ACFA]  
11 are a false promise or misrepresentation made in connection with the sale or advertisement  
12 of merchandise and the hearer’s consequent and proximate injury.” *Holeman*, 803 F. Supp.  
13 at 242.

14 Defendants argue in part that Plaintiffs cannot prevail on their ACFA claim because  
15 communications regarding loan modifications are not the “sale or advertisement of  
16 merchandise.” (Defs.’ MSJ at 11.) Plaintiffs respond that they are. (Doc. 63 at 10–11.) The  
17 parties cite opposing lines of cases, each of which stem from *Villegas v. Transamerica*  
18 *Financial Services, Inc.*, 708 P.2d 781 (Ariz. Ct. App. 1985). In *Villegas*, the borrowers  
19 defaulted on their loan payments, and the lender offered them a new loan but allegedly  
20 omitted material facts. *Villegas*, 708 P.2d at 782–83. In determining whether the ACFA  
21 applied, the Arizona Court of Appeals held that “the lending of money is subject to the  
22 provisions of the [ACFA]” because a loan is “the sale of the present use of money on a  
23 promise to repay in the future,” and “an oral inducement to take a loan, in which material  
24 facts are omitted, would involve an advertisement” under the ACFA. *Id.* at 102.

25 As Plaintiffs argue, this Court has cited *Villegas* to state that “any oral negotiations  
26 to restructure a consumer loan have been considered an ‘advertisement’ within the meaning  
27 of the [ACFA].” *Narramore v. HSBC Bank USA, N.A.*, No. 09-CV-635-TUC-CKJ, 2010  
28 WL 2732815, at \*13 (D. Ariz. July 7, 2010). Relying on *Narramore*, this Court later held



1 that the ACFA “will apply to actions in connection with the origination of a loan or a loan  
2 modification.” *Bergdale v. Countrywide Bank FSB*, No. CV-12-8057-PCT-GMS, 2012  
3 WL 4120482, at \*5 (D. Ariz. Sept. 18, 2012). And following *Bergdale*, this Court  
4 eventually concluded that the ACFA applies to actions in connection with a loan  
5 modification even if the defendants did not offer the plaintiff a new loan. *Myrick v. Bank*  
6 *of Am. Corp.*, No. CV-11-00824, 2013 WL 12097453, at \*3 (D. Ariz. May 30, 2013).

7 On the other hand, Defendants cite a slightly newer string of cases, starting with  
8 *Rich v. BAC Home Loans Servicing LP*, No. CV-11-00511-PHX-DLR, 2014 WL 7671615  
9 (D. Ariz. Oct. 9, 2014), *aff’d sub nom. Rich v. Bank of Am., N.A.*, 666 F. App’x 635 (9th  
10 Cir. 2016). The facts in *Rich* did not involve an offer for a new loan but rather “concern[ed]  
11 communications surrounding potential offers to modify an already existing debt.” *Rich*,  
12 2014 WL 7671615, at \*10. This Court acknowledged that money lending is a “sale of  
13 merchandise” under *Villegas*, but it held that offers to modify an existing debt “[do] not  
14 concern the sale or advertisement of merchandise, but instead concern[] discussions about  
15 modifying the payment schedule for merchandise previously purchased.” *Id.* It thus  
16 concluded that the ACFA does not apply. *Id.* This Court has followed *Rich* in several cases  
17 since, including in a case decided after the parties briefed the motions at issue. *See Rozich*  
18 *v. MTC Fin. Inc.*, CV-23-00210, 2023 WL 7089801, at \*4 (D. Ariz. Oct. 26, 2023);  
19 *Zoldessy v. MUFG Union Bank, N.A.*, CV-20-08329-PCT-SPL, 2021 WL 1733398, at \*3  
20 (D. Ariz. May 3, 2021); *Jahn v. Caliber Home Loans Inc.*, No. CV-18-02244-PHX-DLR,  
21 2019 WL 7049105, at \*3 (D. Ariz. Oct. 25, 2019), *aff’d*, 840 F. App’x 975 (9th Cir. 2021).

22 Although the cases cited by Plaintiffs eventually reached the conclusion that the  
23 ACFA will apply to loan modifications even without an offer of a new loan, the Court  
24 declines to follow those cases because their reasoning is rooted in *Villegas*, and the *Villegas*  
25 court held that the ACFA applied because defendant offered the plaintiffs a new loan. *See*  
26 *Villegas*, 708 P.2d at 782–83. The Court is instead persuaded by the cases Defendants cite.  
27 Like *Rich* and its progeny, this case does not involve the solicitation of a new loan, but  
28 rather the possibility of modifying an existing debt. Defendants therefore did not act “in

1 connection with the sale or advertisement of merchandise” within the meaning of the  
2 ACFA, and the claim fails as a matter of law. The Court will grant Defendants’ motion on  
3 the ACFA claim.

### 4 **III. The Negligent Performance of an Undertaking Claim**

5 Plaintiffs’ final claim is for negligent performance of an undertaking. Specifically,  
6 Plaintiffs allege that Defendants “induced the Plaintiffs to end their CARES Act  
7 forbearance by promising them a loss mitigation option which would allow them to  
8 continue making their former payments and the payments not made during the forbearance  
9 period would be put on the back of the loan.” (Compl. ¶ 85.) Plaintiffs further allege that,  
10 after they relied on Defendants’ promise and gave notice to exit the forbearance,  
11 Defendants informed Plaintiffs that only a materially different loan modification was  
12 available to them. (Compl. ¶¶ 86–87.) Plaintiffs also allege that Defendants failed to notify  
13 them of more favorable loan modifications that arose before they finalized the VA Disaster  
14 Loan Modification. (Compl. ¶ 88.) And Plaintiffs allege harm in the form of increased  
15 interest and principal payments, which would have been avoided but for Defendants’  
16 negligence. (Compl. ¶ 89.)

17 Arizona recognizes negligent performance of an undertaking as it appears in the  
18 Second Restatement of Torts. *Steinberger v. McVey ex rel. Cnty. of Maricopa*, 318 P.3d  
19 419, 431 (Ariz. Ct. App. 2014). The Restatement provides that an individual may be  
20 “subject to liability . . . for physical harm resulting from his failure to exercise reasonable  
21 care to perform” an undertaking. Restatement (Second) of Torts § 323 (1965). Although  
22 the Restatement contemplates only physical harm, the Arizona Supreme Court extended  
23 this cause of action to apply to economic harm as well. *McCutchen v. Hill*, 710 P.2d 1056,  
24 1059 (1985). In cases since *McCutchen*, state and federal courts have determined that this  
25 cause of action is applicable, under certain circumstances, to loan modification procedures.  
26 *See, e.g., Steinberger*, 318 P.3d at 431 (citing state and federal cases); *Martinez v. Cenlar*  
27 *FSB*, 13-CV-00589, 2014 WL 4354875, at \*9–10 (D. Ariz. Sept. 3, 2014) (citing additional  
28

1 federal cases). The parties rely on those cases to argue whether the cause of action is  
2 cognizable here.

3 Recently, however, the Arizona Supreme Court “disavow[ed] *McCutchen* to the  
4 extent it interpreted [Restatement (Second) of Torts] § 323 to encompass purely economic  
5 harm.” *Cal-Am Props. Inc. v. Edais Eng’g Inc.*, 509 P.3d 386, 391 n.1 (Ariz. 2022).  
6 Accordingly, under Arizona law, a plaintiff alleging negligent performance of an  
7 undertaking must allege some sort of physical harm. Plaintiffs here do not allege or proffer  
8 evidence of any harm that is not purely economic. (Compl. ¶ 89.) Therefore, Plaintiffs’  
9 claim fails as a matter of law, and the Court will grant Defendants’ motion on this claim.

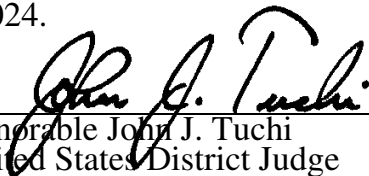
10 **IT IS THEREFORE ORDERED** granting Defendants’ Motion for Summary  
11 Judgment (Doc. 50).

12 **IT IS FURTHER ORDERED** denying Plaintiffs George and Geri Calcut’s Motion  
13 for Partial Summary Judgment & Memorandum of Law in Support Thereof (Doc. 46).

14 **IT IS FURTHER ORDERED** denying as moot Plaintiffs’ Motion to Exclude or  
15 Strike Defendants’ Expert Disclosure of Non-Retained Expert Raymond Crawford  
16 (Doc. 47), Defendants’ Motion to Exclude Expert Testimony from Thomas Tarter  
17 (Doc. 49), Defendants’ Motion to Exclude Testimony from Christy Hancock (Doc. 52),  
18 and Defendants’ Motion to Exclude Expert Testimony from Terri Wilson (Doc. 53).

19 **IT IS FURTHER ORDERED** directing the Clerk of Court to enter judgment in  
20 favor of Defendants and to close this case.

21 Dated this 22nd day of January, 2024.

22   
23 \_\_\_\_\_  
24 Honorable John J. Tuchi  
25 United States District Judge  
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28