Tentative Rulings for March 11, 2025
Department 502

For any matter where an oral argument is requested and any party to the hearing desires a remote appearance, such request must be timely submitted to and approved by the hearing judge. In this department, the remote appearance will be conducted through Zoom. If approved, please provide the department's clerk a correct email address. (CRC 3.672, Fresno Sup.C. Local Rule 1.1.19)

There are no tentative rulings for the following cases. The hearing will go forward on these matters. If a person is under a court order to appear, he/she must do so. Otherwise, parties should appear unless they have notified the court that they will submit the matter without an appearance. (See California Rules of Court, rule 3.1304(c).) ***The above rule also applies to cases listed in this "must appear" section.***

18CECG04046 ***Juan Leon v. Josephine Leon*** **(See below for concerns the Court intends to address at the hearing.)**

The court has continued the following cases. The deadlines for opposition and reply papers will remain the same as for the original hearing date.

_____

(Tentative Rulings begin at the next page)

Tentative Rulings for Department 502

Begin at the next page

(37)

Tentative Ruling

Re: ***Juan Leon v. Josephine Leon***
Superior Court Case No. 18CECG04046

Hearing Date: March 11, 2025 (Dept. 502)

Motion: By Plaintiff Juan Leon to Enforce Settlement

Tentative Ruling:

Plaintiff Juan Leon, Defendant Josephine Leon, counsel Monrae English, and counsel Jeff Reich are all ordered to appear for the hearing.

Explanation:

This motion arises from a complaint filed October 31, 2018 alleging that Defendant Josephine Leon, Plaintiff Juan Leon's sibling, falsified documents in an effort to prevent her sibling(s) from receiving funds awarded from a wrongful death claim as to their mother. A court trial began on August 5, 2019 and on the second day of the trial the parties agreed to gather information in an effort to settle the matter. On September 6, 2019, the court ordered Defendant to have real property appraised and to determine any open liens on the property. After several continuances, on November 12, 2021, the court declared a mistrial. A second court trial was set on October 2, 2023. A settlement agreement was reached and the court set a further court trial on November 9, 2023 regarding enforcement of the terms of the agreement. On November 9, 2023, the parties stipulated to further briefing and a motion to enforce settlement was scheduled for December 14, 2023.

On December 20, 2023, the court issued an Order in which the parties were to open an escrow, Plaintiff was to fill out a Statement of Information within 10 days of the start of escrow, and Defendant was ordered to purchase the property AS IS. Defendant was to pay plaintiff $57,000 in exchange for one-half interest in the property through a 60-day escrow. Plaintiff was not to be responsible for violations on the property, and these were to be cleared by Defendant. The court further provided that if Defendant did not comply and escrow did not close within 60 days, through no fault of Plaintiff, then Plaintiff would be entitled to a Judgment for $32,000 plus costs.

Now, Plaintiff again seeks enforcement of the Settlement Agreement. There are a number of issues the court intends to address with the parties, chief among them the failure of both parties to cooperate to follow this Court's orders.

First, on January 28, 2025, plaintiff's counsel separately filed a declaration regarding attorney's fees. This issue is not properly before the court.

Second, while Plaintiff has filed a motion to enforce a settlement agreement, the motion primarily refers to events related to the court's December 20, 2023 ruling. Counsel

provides one paragraph on the relevant code section for enforcing a settlement agreement, but no analysis. Additionally, while Plaintiff previously provided the court with the Settlement Agreement, it was not provided with *this* motion.

Third, the court previously made it clear that Plaintiff would only be entitled to Judgment in the event any failure to complete the escrow in 60 days was "through no fault of Plaintiff". Yet, it appears that Plaintiff bears some responsibility in the failure to complete escrow.

Ultimately, the parties and counsel are ordered to appear. Additionally, the Court encourages the parties to consider how the parties might address the issue of financing in order to accomplish the goals of clearing violations on the real property and transferring ownership.

Pursuant to California Rules of Court, rule 3.1312(a), and Code of Civil Procedure section 1019.5, subdivision (a), no further written order is necessary. The minute order adopting this tentative ruling will serve as the order of the court and service by the clerk will constitute notice of the order.

Tentative Ruling
Issued By: KCK on 02/28/25.
(Judge's initials) (Date)

(03)

Tentative Ruling

Re: ***Denise Hands v. Central California Faculty Medical Group, Inc.***
Superior Court Case No. 22CECG00474

Hearing Date: March 11, 2025 (Dept. 502)

Motion: Plaintiff's Motion to Approve PAGA Settlement

Tentative Ruling:

To deny plaintiff's motion for approval of PAGA settlement, without prejudice.

Explanation:

1. Introduction

Under Labor Code section 2699, "[t]he superior court shall review and approve any settlement of any civil action filed pursuant to [PAGA]. The proposed settlement shall be submitted to the agency at the same time that it is submitted to the court." (Lab. Code, § 2699, subd. (i)(2).)

The statute does not explain what exactly the trial court should consider when reviewing a proposed PAGA settlement. However, recently the Court of Appeal in *Moniz v. Adecco USA, Inc*. (2021) 72 Cal.App.5th 56 did provide some guidance. The court explained that "many federal district courts have applied the 'fair, reasonable, and adequate' standard from class action cases to evaluate PAGA settlements." (*Id.* at pp. 75–76, disapproved on other grounds by *Turrieta v. Lyft, Inc*. (2024) 16 Cal.5th 664.) "Given PAGA's purpose to protect the public interest, we also agree with the LWDA and federal district courts that have found it appropriate to review a PAGA settlement to ascertain whether a settlement is fair in view of PAGA's purposes and policies. We therefore hold that a trial court should evaluate a PAGA settlement to determine whether it is fair, reasonable, and adequate in view of PAGA's purposes to remediate present labor law violations, deter future ones, and to maximize enforcement of state labor laws." (*Id.* at p. 77, internal citations and footnote omitted.) On the other hand, "PAGA does not provide that aggrieved employees must be heard on the approval of PAGA settlements… PAGA provides no mechanism for aggrieved employees, including those pursuing PAGA lawsuits, to be heard in objection to another PAGA settlement. This concession is dispositive, and we will not read a requirement into a statute that does not appear therein." (*Id.* at p. 79, internal citation omitted.)

2. Notice to LWDA

Labor Code section 2699, subdivision (l)(2), states: "The superior court shall review and approve any settlement of any civil action filed pursuant to this part. The proposed settlement shall be submitted to the agency at the same time that it is submitted to the court."

Here, plaintiff's counsel states that notice of the settlement was given to the LWDA. (Szilagyi decl., ¶ 51, and Exhibit 3 thereto.) The LWDA has not objected to the settlement.

Therefore, plaintiff has complied with the requirement to give notice of the settlement to the LWDA.

3. Is the Settlement Fair, Adequate, and Reasonable?

As mentioned above, the Court of Appeal in *Moniz v. Adecco USA, Inc., supra*, 72 Cal.App.5th 56 stated that the trial court should review PAGA settlements to determine whether they are fair, adequate and reasonable. (*Moniz, supra*, at pp. 75-77.) "Because many of the factors used to evaluate class action settlements bear on a settlement's fairness—including the strength of the plaintiff's case, the risk, the stage of the proceeding, the complexity and likely duration of further litigation, and the settlement amount—these factors can be useful in evaluating the fairness of a PAGA settlement." (*Id.* at p. 77.)

Here it does appear that the proposed settlement is fair, adequate and reasonable under the circumstances.

A. Strength of Case: Plaintiff's counsel states that the defendant's records and expert analysis revealed that there were an estimated 856 aggrieved employees, and that defendant's violations of the law led to an estimated 19,200 pay periods with violations. At a minimum of $100 penalty per pay period, defendant would have exposure of $1,920,00. (Szilagyi decl., ¶ 22.) If the court stacked each violation, then defendant's exposure would potentially be much higher. (*Ibid*.) However, "Plaintiff Counsel's calculations assumed the Court would find multiple violations in every pay period based on Plaintiff's theories of liability, and agree with all of Plaintiff's arguments 13 and supporting evidence as to Defendant's exposure. The exposure was respectively reduced to consider the real risks that the Court would disagree with at least part of Plaintiff's position." (*Id*. at ¶ 23.) Defendant also raised several defenses that might have been successful. (*Id*. at ¶¶ 24-28.) The court also has discretion to reduce PAGA awards that it deems to be overly unjust, arbitrary, oppressive, and confiscatory. Thus, the court might have reduced the award even if plaintiff prevailed. (*Id*. at ¶ 30.)

Therefore, plaintiff has shown that her case was relatively strong, but entailed considerable risks as well, including the risk that she might not obtain anything at trial, or that, even if she did prevail, the award might be substantially reduced by the court. Also, plaintiff's evidence indicates that the gross settlement is over 25% of the total realistic recovery, which appears to be a good result under the circumstances. As a result, this factor weighs in favor of approving the settlement.

B. Stage of the Proceeding: A presumption of fairness exists where the settlement is reached through arm's length mediation between adversarial parties, where there has been investigation and discovery sufficient to allow counsel and the court to act intelligently, and where counsel is experienced in similar litigation. (*Dunk v. Ford Motor Company* (1996) 48 Cal. App 4th 1794, 1802.) Here, the case settled after the parties exchanged informal discovery and attended mediation. It appears that counsel obtained sufficient information to make an informed decision about settling the case. Plaintiff's counsel is also highly experienced in representative litigation. Therefore, this factor weighs in favor of approving the settlement.

C. Risks of Litigating Case through Trial: Plaintiff contends that, while the potential maximum recovery here was substantial, the defendant raised strong defenses and litigating the case through trial would have involved considerable risks for plaintiff. There

would also have been substantial costs to both parties in trying the case. There was also the risk that the court would have reduced the amount of penalties substantially even if plaintiff prevailed at trial. In addition, it is likely that a judgment in favor of plaintiff would have been appealed by defendant, which would result in further expenses and delays, as well as raising the possibility that the judgment might be reversed. Therefore, this factor weighs in favor of approving the settlement.

D. Amount of Settlement: As discussed above, the $500,000 gross settlement amount appears to be reasonable given defendant's strong defenses and the likelihood that plaintiff would not be able to recover the full amount of penalties she sought. There is also a risk that the trial court would exercise its discretion to reduce the amount of penalties even if plaintiff prevailed at trial. Given that the maximum amount of penalties realistically obtainable by plaintiff was $1,920,000, her decision to settle for a gross amount of $500,000 was reasonable under the circumstances. The gross settlement is over 25% of the amount that she might have realistically been likely to obtain if she prevailed at trial, which appears to be a good result. Therefore, plaintiff has adequately shown that the proposed settlement of her PAGA claims for $500,000 is fair, reasonable, and adequate under the circumstances.

E. Experience and Views of Counsel: Plaintiff's counsel are highly experienced in class and representative litigation. They have stated that the settlement is fair, adequate and reasonable under the circumstances. Therefore, this factor weighs in favor of approval.

F. Government Participation: No government entity participated in the case, so this factor does not favor either approval or disapproval of the settlement.

G. Attorney's Fees and Costs: Plaintiff's counsel seeks $166,666.67 in attorney's fees, plus up to $35,000 in court costs. The fees are the equivalent of 1/3 of the total gross recovery.

Courts have approved awards of fees in class actions that are based on a percentage of the total common fund recovery. (*Laffitte v. Robert Half Internat.* (2016) 1 Cal.5th 480, 503.) It appears that the same reasoning would apply to PAGA settlements, which bear similarities to class actions. However, the court may also perform a lodestar calculation to double check the reasonableness of the fee request. (*Laffitte*, *supra*, at pp. 504-506.)

Here, counsel's fees are about 1/3 of the total gross settlement, which does not appear to be unreasonable. Also, counsel claims to have done 244.30 hours of work on the case, billing at rates from $550 to $950 per hour. (Szilagyi decl., ¶¶ 45-46.) Counsel claims to have billed $177,560 in work on the case. (*Ibid*.) The hours incurred appear to be reasonable. The hourly rates are high in comparison to the rates charged by Fresno attorneys, but they do appear to be in line with what other Southern California attorneys of similar background and experience charge. Therefore, the court intends find that the hourly rates charged by plaintiff's counsel are reasonable.

The requested fees are actually somewhat lower than the lodestar fees incurred on the case, which also tends to show that the requested fees are reasonable here. Therefore, the court intends to find that the requested fees are reasonable under the circumstances.

Likewise, the request for $35,000 in costs is reasonable, as counsel states that they incurred $27,808.420 in costs over the course of the litigation, and they anticipate incurring more costs before the case is finished. Any costs that are not incurred in the case will revert back to the net settlement amount. (Szilagyi decl., ¶ 48.) Therefore, the court intends to approve the request for $35,000 in costs.

H. Administration Costs: The settlement administrator, Phoenix Settlement Administrators will receive up to $8,750 to cover administration costs. However, Phoenix has not provided a declaration from any of its representatives to explain why it should receive $8,750 for administration costs. Therefore, plaintiff has not shown that the requested amount of administration costs is reasonable here.

I. Incentive Award to Named Plaintiff: The settlement also provides that the named plaintiff will receive an incentive award of $15,000. This amount will compensate her for her work on the case, as well as for the release of her individual claims. However, there is no declaration from plaintiff to explain what work she did on the case or why she should receive $15,000. Therefore, plaintiff has not shown that the incentive award is reasonable and fair under the circumstances.

J. Dismissal of Class Claims: The settlement also provides for a release of the class claims. However, counsel does not explain why the class claims should be dismissed here without any additional compensation over the PAGA settlement. Counsel's declaration only discusses the reasonableness of the PAGA settlement without addressing the value and risks of the class claims, or why they should be dismissed without any additional payment. Therefore, plaintiff has failed to show that the settlement with regard to the class claims is fair, reasonable, or adequate.

4. Conclusion: The court intends to deny the motion to approve the PAGA settlement, without prejudice.

Pursuant to California Rules of Court, rule 3.1312(a), and Code of Civil Procedure section 1019.5, subdivision (a), no further written order is necessary. The minute order adopting this tentative ruling will serve as the order of the court and service by the clerk will constitute notice of the order.

Tentative Ruling
Issued By: KCK on 03/03/25.
(Judge's initials) (Date)

(03)

Tentative Ruling

Re: ***McCarthy Family Farms, Inc. v. Sandridge Partners, L.P.***
Superior Court Case No. 24CECG05220

Hearing Date: March 11, 2025 (Dept. 502)

Motion: Defendant's Motion to Quash Service of Summons

Tentative Ruling:

To deny defendant's motion to quash the service of summons on it. To order defendant to file its answer or other responsive pleading within 10 days of the date of service of this order.

Explanation:

Defendant Sandridge Partners claims that plaintiff did not serve its agent for service of process by personal delivery, so the summons should be quashed under Code of Civil Procedure section 418.10.

"Evidence Code section 647 provides that a registered process server's declaration of service establishes a presumption affecting the burden of producing evidence of the facts stated in the declaration." (*American Express Centurion Bank v. Zara* (2011) 199 Cal.App.4th 383, 390, citation omitted.) "A defendant who takes the position that the service of summons as made upon him did not bring him within the jurisdiction of the court, may serve and file a notice of motion to quash the service. The effect of such a notice is to place upon the plaintiff the burden of proving the facts that did give the court jurisdiction, that is the facts requisite to an effective service." (*Coulston v. Cooper* (1966) 245 Cal.App.2d 866, 868, citation omitted.)

"Service of summons in conformance with the mode prescribed by statute is deemed jurisdictional. Absent such service, no jurisdiction is acquired by the court in the particular action." (*Sternbeck v. Buck* (1957) 148 Cal.App.2d 829, 832, citations omitted.) "'Personal service' means the actual delivery of the papers to the defendant in person." (*Ibid;* see also *Crescendo Corp. v. Shelted, Inc.* (1968) 267 Cal.App.2d 209, 212, quoting 40 Cal.Jur.2d 66.) Thus, where the summons and complaint were served on the wife of defendant rather than on the defendant himself, service was not effective over the defendant even though he later actually received the summons and complaint. (*Sternbeck v. Buck, supra*, at pp. 835, 838-839.)

Likewise, in *American Express Centurion Bank v. Zara*, *supra*, 199 Cal.App.4th 383, the Court of Appeal held that defendant had rebutted the presumption of proper service by declaring that he was not served with the summons and complaint and the process server's declaration clearly did not accurately describe the defendant's appearance. "Defendant declared that he was not served. Though the trial court was not required to accept this self-serving evidence contradicting the process server's declaration, the proof of service on its face indicates that the process server did not comply with the rules

governing service. It shows personal service upon defendant himself and describes defendant as an Asian with black hair, a description that does not fit defendant. The proof of service was therefore untruthful. … In the absence of evidence from the process server, the uncontradicted evidence is that the process server did not personally serve defendant. Plaintiff therefore did not carry its burden of proving the facts requisite to an effective service." (*Id*. at p. 390, footnote omitted.)

Here, defendant claims that its agent for service of process, John Vidovich, was not personally served with the summons and complaint on December 10, 2024, as stated in the proof of service. Defendant claims that Mr. Vidovich was not in the office on December 10, 2024, and he denies being served with the documents. The office receptionist, Serena Lopez, claims that the process server gave the papers to her, not Mr. Vidovich, and that she date-stamped the papers and left them in Mr. Vidovich's inbox. Mr. Vidovich claims that he did not learn of the papers until January 13, 2025, more than a month after they were allegedly served on him. He points to the fact that the papers were date-stamped as evidence that he was not served with them, as he claims that he does not date-stamp mail or other documents and that only his staff would have date-stamped the papers. He also alleges that his physical description does not match the description given in the process server's declaration, which shows that the process server did not personally serve him.

Defendant also submits the declaration of another staff member, Madeleine Zib, who claims that Mr. Vidovich was not in the office when the papers were served, and that Ms. Lopez asked her what to do with the papers. She told Ms. Lopez to leave them with the company controller.

However, Ms. Zib has now submitted a supplemental declaration, in which she recants her earlier statements and admits that she was not in the office on December 10, 2024, and that she had confused the service of summons in the present case with a different service that took place on another date. Therefore, the court intends to disregard Ms. Zib's testimony, as she apparently has no relevant information about whether service was made on Mr. Vidovich on December 10, 2024, since she was not even in the office on that date.

In opposition, plaintiff points to the proof of service signed by the registered process server, Mikayla Plushnik, as well as her declaration in which she describes the events surrounding the service. (See Exhibit A to Paloutzian decl.) Ms. Plushnik claims that she went to the defendant's office at 960 N. San Antonio Road, Suite 114, Los Altos, California to serve the summons and complaint on defendant's agent for service, John T. Vidovich. "On December 10th, 2024, at 1:49pm, I entered suite 114 and asked for John T. Vidovich. A gentleman came out of the back and identified himself as John Vidovich. I identified who I was and gave him the documents. Mr. Vidovich's description from memory is a White, Male, 50-60 years old, grayish hair, between 5'10-5'11, and approximately 175lbs." (Plushnik decl., ¶ 4.)

Thus, there is conflicting evidence regarding whether defendant's agent Mr. Vidovich was personally served with the summons and complaint or not. The court is not required to accept defendant's agent's self-serving statements that he was not served, however. (*American Express Centurion Bank v. Zara*, *supra*, 199 Cal.App.4th at p. 390.)

Defendant has a clear interest in denying that it was served, whereas the process server has no stake in the lawsuit or reason to lie about the facts of service. Also, one of defendant's witnesses has now recanted her testimony that Mr. Vidovich was not in the office and was not personally served, which casts doubt on the credibility of defendant's other witnesses as well.

Also, while Mr. Vidovich claims that the process server's declaration does not contain an accurate physical description of him because she gives an incorrect height, weight, and age for him, the process server's declaration is not so egregiously wrong as to undermine her credibility. The situation here is not like the situation in *American Express Centurion Bank*, where the process server gave the wrong race and hair color when describing the defendant. (*American Express Centurion Bank, supra*, at p. 390.) In the present case, the fairly minor errors in the physical description of defendant do not undermine the process server's credibility. Therefore, the court intends to find that plaintiff has met its burden of showing that the summons and complaint were personally served on defendant's agent for service of process. Consequently, the motion to quash service of the summons and complaint will be denied.

Pursuant to California Rules of Court, rule 3.1312(a), and Code of Civil Procedure section 1019.5, subdivision (a), no further written order is necessary. The minute order adopting this tentative ruling will serve as the order of the court and service by the clerk will constitute notice of the order.

Tentative Ruling
Issued By: KCK on 03/05/25.
(Judge's initials) (Date)

(20)

Tentative Ruling

Re: ***Miguel Maldonado Contreras, Trustee v. George Bessette***
Superior Court Case No. 24CECG03266

Hearing Date: March 11, 2025 (Dept. 502)

Motion: By Defendant for Judgment on the Pleadings

Tentative Ruling:

To grant, with plaintiff granted 10 days' leave to file a first amended complaint. (Code Civ. Proc., § 438, subd. (c)(1)(A).) All new allegations shall be in **boldface** type. The time in which the complaint may be amended will run from service of the order by the clerk.

Explanation:

In the Complaint plaintiff seeks to quiet title and obtain declaratory relief regarding real property located at 1435 W. Flint Way, Fresno California. Plaintiff contends it is the rightful owner of the property as a bona fide purchaser for value, free and clear of any leasehold interests, and that the lease that defendant entered into with the prior owner is ineffective and unenforceable against plaintiff. Defendant, on the other hand, contends that the lease is valid and enforceable, giving defendant the right to occupy the property through December 31, 2029.

In moving for judgment on the pleadings, defendant contends that the Complaint is barred by res judicata because a determination was made in a prior unlawful detainer ("UD") proceeding that the lease is valid. The issue is the whether this UD action bars the claims asserted in the Complaint.

The grounds for a motion for judgment on the pleadings must appear on the face of the challenged pleading or be based on facts the court may judicially notice. (Code Civ. Proc., § 438, subd. (d); *Tung v. Chicago Title Co.* (2021) 63 Cal.App.5th 734, 758-759.) It does appear from the face of the complaint and the judgment from the UD action that the complaint is barred by the doctrine of res judicata, as the court held, "The court rules in favor of Defendant George Bessette. The court makes a factual finding that the residential lease agreement is valid. Defendant can remain on property until the termination of the fixed term which Is 12/31/2029." This was in reference to the "Signed Agreement between Defendant and previous owner who was defendant's sister regarding Home and payment which also indicates defendant can remain on premises until 12/31/2029". (RJN Exh. B.) This does seem to meet the requirements of res judicata. The parties are the same and the ruling explicitly addressed the validity of the lease, which is what plaintiff seeks to relitigate here.

The opposition is premised on facts not found in the Complaint or in the record of the UD action. Defendant contends that he did not have an opportunity to fully and fairly litigate the issue of validity of the lease agreement. (See Maldonado Decl., ¶¶ 7-9.) While

the court cannot consider these facts for purposes of ruling on the merits of the motion, the court will consider it as a proffer of how the Complaint could be amended to take the claim outside the purview of res judicata.

"[A] judgment in unlawful detainer usually has very limited res judicata effect and will not prevent one who is dispossessed from bringing a subsequent action to resolve questions of title or to adjudicate other legal and equitable claims between the parties." (*Vella v. Hudgins* (1977) 20 Cal.3d 251, 255, internal citations omitted.)

In *Wood v. Herson* (1974) 39 Cal.App.3d 737, the court stated that there was a "full and fair" opportunity to litigate these issues in the underlying unlawful detainer action because the trial itself lasted several days, there was "extensive" and "complete" discovery, the evidence was "detailed", and the proceeding was "clearly" "not the customary unlawful detainer proceeding." (*Id.* at pp. 742, 745.)

"An unlawful detainer judgment has limited res judicata effect because the claim preclusion aspect of the res judicata doctrine applies only to matters that were raised or could have been raised in the earlier action on matters that were litigated or litigable." (*Hong San Mkt., Inc. v. Peng* (2018) 20 Cal.App.5th 474, 491.) When a party seeks to litigate quiet title issues, because they are "not cognizable in unlawful detainer [actions]," judgments in unlawful detainer actions will not be res judicata as to subsequent or simultaneous quiet title claims. (*Evans v. Superior Court* (1977) 67 Cal.App.3d 162, 171.)

As described by plaintiff's counsel, a full and fair opportunity to address the validity of defendant's lease was not afforded in the UD trial. The court intends to grant the motion, but give plaintiff an opportunity to allege in an amended complaint facts showing that there was no full and fair opportunity.

Pursuant to California Rules of Court, rule 3.1312(a), and Code of Civil Procedure section 1019.5, subdivision (a), no further written order is necessary. The minute order adopting this tentative ruling will serve as the order of the court and service by the clerk will constitute notice of the order.

Tentative Ruling
Issued By: KCK on 03/10/25 .
(Judge's initials) (Date)

(36)

Tentative Ruling

Re: ***John "HJ" Doe v. Fresno Unified School District***
Superior Court Case No. 23CECG03206

Hearing Date: March 11, 2025 (Dept. 502)

Motion: Defendant Fresno Unified School District's Demurrer and Motion to Strike Portions of the First Amended Complaint

Tentative Ruling:

To overrule the demurrer to the fourth cause of action. To sustain the demurrer to the fifth cause of action with leave to amend. (Code Civ. Proc., § 430.10, subd. (e).) To grant the motion to strike. (Code Civ. Proc., § 436.)

Plaintiff is granted 20 days' leave to file the Second Amended Complaint. The time in which the complaint can be amended will run from service by the clerk of the minute order. All new allegations in the Second Amended Complaint are to be set in **boldface** type.

Explanation:

Demurrer

FUSD demurs to the fourth cause of action for intentional infliction of emotional distress ("IIED"), on the ground that the First Amended Complaint ("FAC") improperly includes allegations that are outside of the scope of the court's prior order. FUSD also demurs to the fifth cause of action for public entity liability for failure to perform mandatory duty, on the ground that plaintiff fails to allege facts sufficient to state a claim.

Fourth Cause of Action – Intentional Infliction of Emotional Distress

FUSD contends that the court's previous order only allows plaintiff to amend the complaint to assert a direct claim for IIED based on Mr. Confectioner's sexual abuse, and not any claims based on the negligent hiring and supervision of other FUSD employees.

As plaintiff points out, this is a misinterpretation of the court's order, as leave to amend was granted to allow plaintiff to assert a direct claim for IIED under any statutory basis. However, leave to amend was not granted to allow plaintiff to plead a IIED claim based on vicarious liability. While the FAC does plead allegations supporting this theory of liability, in the interest of judicial economy, and the demurrer and motion to strike are not sustained and granted on this basis. The merits of plaintiff's arguments asserting that he has stated a cause of action for IIED based on FUSD's vicarious liability for the alleged negligent hiring and supervision of FUSD employees is considered herein. The same treatment is afforded for plaintiff's fifth cause of action for failure to perform mandatory duty.

Direct Liability

"Except as otherwise provided by statute: (a) A public entity is not liable for an injury, whether such injury arises out of an act or omission of the public entity or a public employee or any other person." (Gov. Code, § 815, subd. (a).)

The FAC alleges that FUSD "can be held liable for Intentional Infliction of Emotional Distress under Government Code Sections [ ] 815.2 and 815.6." (FAC, ¶ 107.) However, neither of these statutes provide that a direct claim for IIED may be stated against a public entity, such as FUSD. Government Code section 815.2 pertains to the public entity's vicarious liability for injuries "proximately caused by an act or omission of an employee. . ." (Gov. Code, § 815.2, subd. (a).) Additionally, as will be provided below, the FAC has not alleged facts sufficient to state a claim to set forth a mandatory duty under Government Code section 815.6. Accordingly, the FAC fails to allege any statutory basis to support a direct action for IIED against FUSD.

Vicarious Liability

The California Supreme Court in *John R. v. Oakland Unified School Dist.* (1989) 48 Cal.3d 438 held that a school district cannot be held vicariously liable for a sexual assault committed by an employee on another person, particularly, on a student under that teacher's supervision. (*Id*., at pp. 451-453.)

Plaintiff clarifies that his vicarious liability IIED claim against FUSD is based on the acts and omissions of FUSD employees, other than defendant Confectioner, for the employees' negligent hiring, retention, or supervision of defendant Confectioner. FUSD argues that plaintiff's vicarious liability claim is simply a reiteration of his negligent hiring, supervision, or retention causes of action, which are not at issue. While unorthodox, FUSD does not present any authority indicating that such a claim is unavailable. Plaintiffs seeking to hold an employer liable under *respondeat superior* need not name or join the employee tortfeasor as a defendant. (*C.A. v. William S. Hart Union High School Dist.* (2012) 53 Cal.4th 861, 872.) However, for example, if plaintiff had named or joined a specific employee and asserted an IIED claim against him for his failure to protect plaintiff and/or report Confectioner, then to plead a cause of action for vicarious liability of that IIED claim, the complaint need only to adequately plead the elements of the underlying direct claim. (See *Lawson v. Superior Court* (2010) 180 Cal.App.4th 1372, 1389.) There does not seem to be any authority holding a plaintiff who does not name or join an employee tortfeasor as a defendant to a different pleading standard.

Accordingly, the demurrer to the fourth cause of action is sustained.

Fifth Cause of Action – Failure to Perform Mandatory Duty

FUSD demurs to the fifth cause of action for failure to perform mandatory duty, on the ground that the statutes and constitutional provisions expressly stated in the FAC do not impose mandatory duties as a matter of law.

"Government Code section 815.6 states that '[w]here a public entity is under a mandatory duty imposed by an enactment that is designed to protect against the risk of

a particular kind of injury, the public entity is liable for an injury of that kind proximately caused by its failure to discharge the duty unless the public entity establishes that it exercised reasonable diligence to discharge the duty.' (*Ibid.*) The term " [e]nactment" ' as used in the statute means 'a constitutional provision, statute, charter provision, ordinance or regulation.' (Gov. Code, § 810.6.)" (*Id.*, at p. 1391.)

" 'In applying Government Code section 815.6, the first "and foremost" precondition to liability is that "the enactment at issue be *obligatory*, rather than merely discretionary or permissive, in its directions to the public entity; it must *require*, rather than merely authorize or permit, that a particular action be taken or not taken." [Citation.] "It is not enough, moreover, that the public entity or officer have been under an obligation to perform a function if the function itself involves the exercise of discretion." ... [¶] 'Whether an enactment creates a mandatory duty is a question of law....' " [Citations.]" (*Lawson v. Superior Court, supra,* at p. 1392.) "Courts have construed this first prong rather strictly, finding a mandatory duty only if the enactment 'affirmatively imposes the duty and provides implementing guidelines.' [Citations.] (*Guzman v. County of Monterey* (2009) 46 Cal.4th 887, 898, citations omitted.) "If rules and guidelines for the implementation of an alleged mandatory duty are not set forth in an otherwise prohibitory statute, it cannot create a mandatory duty." (*Clausing v. San Francisco Unified School Dist.* (1990) 221 Cal.App.3d 1224, 1240 ("*Clausing*").)

The enactment must also be "self-executing in the sense that it establishes an affirmative duty to act on the part of school districts, provides remedies for its violation, or creates a private cause of action for damages." (*Clausing, supra,* 221 Cal.App.3d at p. 1236, fn. omitted.) " 'The following rule has been consistently applied in California to determine whether a constitutional provision is self-executing in the sense of providing a specific method for its enforcement: " 'A constitutional provision may be said to be self-executing if it supplies a sufficient rule by means of which the right given may be enjoyed and protected, or the duty imposed may be enforced; and it is not self-executing when it merely indicates principles, without laying down rules by means of which those principles may be given the force of law.' " [Citations.]' [Citation.]" (*Id.*, at p. 1237, citations omitted.)

The enactments alleged to have been violated in the FAC are as follows: Government Code sections 820, 815.2, Article 1, section 28(c) of the California Constitution, Federal Civil Rights Act, section 1983, 14th Amendment of the U.S. Constitution, Civil Code, section 43, Civil Code section 1708, Penal Code sections 11166, 11167, Education Code sections 200 and 201, and United States Code, title 20, section 1681.

- Government Code sections 820 and 815.2

Government Code sections 820 and 815.2 are general liability statutes, and do not provide any obligation or duty to act. (Gov. Code, §§ 820, 815.2.)

- California Constitution, Article I, Section 28(c)

California Constitution, article I, " 'section 28(c) declares a general right without specifying any rules for its enforcement. It imposes no express duty on anyone to make

schools safe. It is wholly devoid of guidelines, mechanisms, or procedures from which a damages remedy could be inferred. Rather, " 'it merely indicates principles, without laying down rules by means of which those principles may be given the force of law.' " [Citation.]' [Citation.] There is nothing in the legislative history of section 28, subdivision (c), to suggest that it was intended to create a civil action for damages or an affirmative duty to insure that schools are free from all risk of crime and violence. The right proclaimed in section 28, subdivision (c), although inalienable and mandatory, simply establishes the parameters of the principle enunciated; the specific means by which it is to be achieved for the people of California are left to the Legislature.' [Citation.] " (*Clausing v. San Francisco Unified School Dist., supra,* 221 Cal.App.3d at p. 1237, citations omitted.)

According, California Constitution, article I, "section 28, subdivision (c), is not self-executing, in the sense that it does not provide an independent basis for a private right of action for damages. Neither does it impose an express affirmative duty on any government agency to guarantee the safety of schools. [Citations.] " (*Clausing*, *supra,* 221 Cal.App.3d at pp. 1237-1238, citations omitted.)

- Civil Code sections 43 and 1708

Civil Code sections 43 and 1708 are general tort liability provisions, which impose a general duty of care on all persons. Common law principles alone, are insufficient "bases for imposing direct tort liability on a public entity." (*Eastburn v. Regional Fire Protection Authority* (2003) 31 Cal.4th 1175, 1183, italics omitted.) " '[A] public entity is not liable for an injury,' '[e]xcept as otherwise provided by statute.' (Gov. Code, § 815.) In other words, direct tort liability of public entities must be based on a specific statute declaring them to be liable, or at least creating some specific duty of care, and not on the general tort provisions. . . . Otherwise, the general rule of immunity for public entities would be largely eroded by the routine application of general tort principles. [Citations.]" (*Ibid*.)

- Federal Civil Rights Act, section 1983 and 14th Amendment of the U.S. Constitution

There are no factual allegations indicating that FUSD has violated these enactments.

- Penal Code sections 11166 and 11167

Several federal courts have considered the issue and concluded that the Child Abuse and Neglect Reporting Act ("CANRA"), Penal Code section 11166, does not support a private right of action. (*Myles v. W. Contra Costa Unified Sch. Dist.* (N.D.Cal., Mar. 28, 2024, No. 23-cv-01369-AGT), 2024 WL 1354440 *11; *Yates v. E. Side Union High Sch. Dist.* (N.D.Cal., Aug. 18, 2021, No. 18-cv-02966-JD), 2021 WL 3665861 *7; *Jamison v. Kaiser Found.* (E.D.Cal., June 18, 2014, No. 2:14-cv-1104 LKK KJN P) 2014 WL 2766117.) While these federal decisions are not binding, the court finds them persuasive and likewise concludes that Penal Code sections 11166 and 11167 do not create a private right of action.

The court further notes that plaintiff's opposition on the matter are, as FUSD points out, fundamentally arguments for negligence per se. "While CANRA itself does not support a private right of action, it may support a claim under a theory of negligence per se." (*Myles v. W. Contra Costa Unified Sch. Dist.* (N.D.Cal., Mar. 28, 2024, No. 23-cv-01369-AGT), 2024 WL 1354440 *11.)

- Education Code sections 200 and 201 and United States Code, title 20, section 1681 ("Title IX")

"Title IX prohibits sex discrimination under any education program or activity receiving federal funds." (*Donovan v. Poway Unified School District* (2008) 167 Cal.App.4th 567, 598.) The statute provides in part: "No person ... shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance." (20 U.S.C. § 1681, subd. (a).) Similarly, Education Code section 200 *et. seq.* requires California public schools to "combat racism, sexism, and other forms of bias, and a responsibility to provide equal educational opportunity." (See Ed. Code, §§ 200, 201.)

California Education Code Section 200 states that it is "the policy of the State of California to afford all persons in public schools, regardless of their disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation ... equal rights and opportunities in the education institutions of the state." Cal. Educ. Code § 200. In the same chapter, the Legislature declares that "all pupils have the right to participate fully in the educational process, free from discrimination and harassment." Cal. Educ. Code § 201(a). Further, it states, "It is the intent of the Legislature that each public school undertake educational activities to counter discriminatory incidents on school grounds and, within constitutional bounds, to minimize and eliminate a hostile environment on school grounds that impairs the access of pupils to equal educational opportunity."

While California Education Code recites legislative intent, the statutory language does not affirmatively impose a mandatory duty, nor does it provide any implementing guidelines. Accordingly, these enactments do not impose a mandatory duty under Government Code section 815.6. The same applies to Title IX.

Notably, however, plaintiff's opposition seemingly indicates that he seeks to allege sex discrimination in violation of Title IX and California's parallel statute, Education Code section 200 *et seq.* In order to state a claim for monetary damages against a school district under Title IX for sexual abuse by the student's teacher, plaintiff must allege that "an official of the school district[,] who at a minimum has authority to institute corrective measures on the district's behalf[,] has actual notice of, and is deliberately indifferent to, the teacher's misconduct. (*Gebser v. Lago Vista Independent School Dist.* (1998) 524 U.S. 274, 277.) California courts have reasoned that Title IX's elements govern a damage claim under Education Code section 220. (See *Donovan v. Poway Unified School Dist.* (2008) 167 Cal.App.4th 567, 596-608; see also *Roe v. Hesperia Unified School District* (2022) 85 Cal.App.5th 13, 32-33.)

Although plaintiff has alleged that supervisory personnel had actual knowledge of Confectioner's misconduct, plaintiff does not allege that an official of the school district, who had authority to institute correct measures had such requisite knowledge.

Accordingly, the demurrer to the fifth cause of action is sustained. Leave to amend is granted to allow plaintiff to properly assert its claims for negligence per se for violation of CANRA, and sex discrimination in violation of Title IX and Education Code section 200 *et seq*.

Motion to Strike

FUSD moves to strike portions of the FAC pertaining to (1) Mr. Confectioner's acts within the course and scope of his employment with FUSD; (2) FUSD's alleged failure to perform mandatory duties; and (3) Civil Code section 51.9.

Scope of Employment

FUSD contends that the allegations indicating that Mr. Confectioner was acting within the course and scope of his employment when he sexually abused plaintiff are improper, since it has been determined that school districts are not vicariously liable for an employee's sexual assault of a student, and such assault is outside the course and scope of employment. Indeed, such acts are outside the course and scope of Mr. Confectioner's employment. (*John R. v. Oakland Unified School Dist.* (1989) 48 Cal.3d 438, 451-453.) Accordingly, the requests to strike the allegations pertaining to Mr. Confectioner's acts being committed during the course and scope of his employment are granted.

Mandatory Duty

For reasons delineated above in the court's ruling on demurrer of the fifth cause of action, these portions of the FAC are stricken.

Civil Code section 51.9

The court judicially notices that in plaintiff's opposition to FUSD's first demurrer to the original complaint, plaintiff conceded that Civil Code section 51 is inapplicable. Thus, this portion of the FAC is stricken.

Pursuant to California Rules of Court, rule 3.1312(a), and Code of Civil Procedure section 1019.5, subdivision (a), no further written order is necessary. The minute order adopting this tentative ruling will serve as the order of the court and service by the clerk will constitute notice of the order.

Tentative Ruling
Issued By: KCK on 03/10/25.
(Judge's initials) (Date)

(46)

Tentative Ruling

Re: ***Steven Carrillo v. Donald Wallace, Jr.***
Superior Court Case No. 24CECG01555

Hearing Date: March 11, 2025 (Dept. 502)

Motion: by Plaintiff to Compel Further Discovery Responses to Request for Production of Documents, Set One, and for Monetary Sanctions

Tentative Ruling:

To grant plaintiff Steven Carrillo's requests for judicial notice. (Evid. Code, § 452.)

To grant plaintiff Steven Carrillo's motion to compel further responses from defendant **Donald R. Wallace, Jr.** to document requests, set one, numbers 1-23, 25-43, 45-51, 53-87, 89, 91-102, 110-111, 119, 127-128 & 136-316; and from defendant **Charissa M. Wallace** to document requests, set one, numbers 1-228, 230-285, 292, 299 & 306. (Code Civ. Proc. § 2031.310.) Defendants shall serve verified amended supplemental responses, and a privilege log if they intend to maintain the privilege objections, within 20 days of the date of service of this order.

To impose monetary sanctions in the reduced amount of $6,060.00 in favor of plaintiff Steven Carrillo, and against defendants Donald R. Wallace, Jr. and Charissa M. Wallace. (Code Civ. Proc. §§ 2023.010, subd. (e); 2031.300, subd. (c).) Defendants are ordered to pay $6,060.00 in sanctions to counsel for the plaintiff, Wanger Jones Helsley PC, within 30 days of the clerk's service of the minute order.

Explanation:

Judicial Notice

Items 1, 7-9, and 11-14, (with Motion) and Items 1 and 2 (with Reply) are judicially noticeable pursuant to Evidence Code section 452 subdivision (d), as they are records of a California court. The court intends to grant judicial notice only to the extent that such official records exist.

Items 2-6 and 10 (with Motion) are judicially noticeable pursuant to Evidence Code section 452 subdivision (c) or (h). (See *Belen v. Ryan Seacrest Productions, LLC* (2021) 65 Cal.App.5th 1145, 1161; *Friends of Shingle Springs Interchange, Inc. v. County of El Dorado* (2011) 200 Cal.App.4th 1470, 1483-1484.) The court intends to grant judicial notice only to the extent that such official records exist.

Items 15-19 may be judicially noticeable. Plaintiff cites to Evidence Code section 452 subdivisions (c) and (h), and cites to one unpublished US District Court case in which the court grants a request for judicial notice of screenshots of searches run on the county's Fictitious Business Name Statement website. (*Better Homes Realty, Inc. v.*

Watmore (S.D. Cal., Apr. 18, 2017, No. 316CV01607BENMDD) 2017 WL 1400065, at *2.) Plaintiff properly attached copies of the screenshots to be judicially noticed. Defendants did not oppose the requests for judicial notice nor offer opposing case law. The court intends to grant judicial notice only to the extent that such records exist.

Good Cause

A motion to compel must "set forth specific facts showing good cause justifying the discovery sought by the inspection demand." (Code Civ. Proc., § 2031.310 subd. (b)(1).) Absent a privilege issue or claim of attorney work product, that burden is met simply by a fact-specific showing of relevance. (*Glenfed Dev. Corp. v. Superior Court* (1997) 53 Cal.App.4th 1113, 1117.) If "good cause" is shown by the moving party, the burden is then on the responding party to justify any objections made to document disclosure. (*Kirkland v. Superior Court* (2002) 95 Cal.App.4th 92, 98.) Declarations are generally used to show the requisite "good cause" for an order to compel inspection. The declarations must contain "specific facts" rather than mere conclusions. (*Fireman's Fund Ins. Co. v. Superior Court* (1991) 233 Cal.App.3d 1138, 1141.)

In the present action, the documents sought are for the purpose of advancing plaintiff Steven Carrillo's complaint against defendants Donald R. Wallace, Jr. and Charissa M. Wallace, and plaintiff's defenses against the defendants' cross-complaint. Though the declaration filed in support of the motion alone does not establish good cause, sufficient factual information is set forth in plaintiff's separate statement to proceed to the merits of the motion to compel.

"Boilerplate, Objections-Only Responses"
Mr. Wallace: RFP Nos. 1-2, 25, 27-29, 33-38, 42-43, 45-47, 50-51, 53-55 & 59
Mrs. Wallace: RFP Nos. 1-2, 9-16, 230-232, 236-239, 241-246, 250-253 & 257

A timely objection is an allowable response to request for production of documents. (Code Civ. Proc., § 2031.210 subd. (a)(3).) However, if the responding party objects to an inspection demand, the response must "identify with particularity" any document or thing falling within any category in the demand to which the objection is made, and set forth the specific ground for objection. (*Id*., § 2031.240 subd. (b).) General objections are improper.

Defendants "generally object" to these requests on the grounds that they are unduly burdensome, oppressive, abusive of the discovery statutes causing annoyance, harassment, and expense, and that the information sought has already been produced. For some of the requests, defendants also include objections due to protected/privileged information (discussed below).

General objections are improper, and the objections made do not justify the lack of substantive responses. Plaintiff may seek to compel substantive responses. In regard to these requests, they are essentially initial responses as none have yet been received. The court intends to grant the motion to compel as to these responses.

"Document Production and Responses Are Deficient, Fail to Comply With Code of Civil Procedure Section 2031.280, and Must be Supplemented"

Mr. Wallace: RFP Nos. 3-23, 30-32, 39-41, 48-49, 56-58, 60-87, 89, 91-97, 143-147, 149-150, 152-165 & 167-316
Mrs. Wallace: Nos. 3-8, 17-27, 30-31, 37-180, 187-191, 193-194, 196-209,211-228, 233-235, 240, 247-249, 254-256 & 258-285

Any documents or category of documents produced in response to a demand for inspection, copying, testing, or sampling shall be identified with the specific request number to which the documents respond. (Code Civ. Proc., § 2031.280.)

For these requests, defendants provide objections and substantive responses indicating that the requested "relevant non-confidential documents in Responding Party's possession, custody, and control" are being concurrently produced. Plaintiff argues that many of the responses list overbroad categories of documents (e.g. only lists state "[Institution Name] Statements" without further details) and fail to provide bates stamp identifies for all documents produced. Plaintiff indicates that the documents without bates stamps or even separate folders/categories is a failure to comply with Code of Civil Procedure section 2031.280. Plaintiff argues that even when bates stamps or categories are used, they are vague and overbroad, and thus at times reference non-responsive documents.

Defendants' in their non-opposition to this motion claim that code-compliant discovery responses consistent with plaintiff's demand have been provided in advance of the hearing on this motion. However, defendants do not demonstrate this with evidence or declaration. Plaintiff declares that, to date, defendant Donald R. Wallace, Jr. has not provided amended supplemental responses, and defendant Charissa M. Wallace has not provided code-compliant amended supplemental responses (i.e. responses are not verified and do not remedy the deficiencies laid out in this motion), therefore the motion should still be heard on its merits.

Without demonstrating that code-compliant amended supplemental responses have been served, defendants also did not meet their burden to justify their objections. Defendants' purported failure to properly identify the documents produced and link them with the specific requests to which the documents correspond is a failure to comply with Code of Civil Procedure section 2031.280. The court intends to grant the motion to compel as to these responses.

<u>"Improper for Failure to Produce a Privilege Log With Document Production"</u>
Mr. Wallace: RFP Nos. 3-23, 26, 30-32, 39-41, 48-49, 56-58, 60-87, 89, 91-102, 110-111, 119, 127-128 & 136-316
Mrs. Wallace: RFP Nos. 3-8, 17-228, 233-235, 240, 247-249, 254-256, 258-285, 292, 299 & 306

"If an objection is based on a claim of privilege or a claim that the information sought is protected work product, the response shall provide sufficient factual information for other parties to evaluate the merits of that claim, including, if necessary, a privilege log." (Code Civ. Proc., § 2031.240 subd. (c)(1).) The information in the privilege log must be sufficiently specific to allow a determination of whether each withheld document is or is not fact privileged. (*Wellpoint Health Networks, Inc. v. Superior Court* (1997) 59 Cal.App.4th 110, 130.)

When objecting to the requests for production, defendants raised objections to the "[d]iscovery of constitutionally protected information," "privileged information," and "privacy rights." Plaintiff argues that no code-compliant privacy log has been provided, and defendants fail to demonstrate that one has been provided. Without a privilege log, the court cannot make discovery rulings as to claims of privilege. The parties have already stipulated to a protective order, which should alleviate privacy concerns. However, if defendants refuse to disclose a document protected on this basis, they must serve a privilege log on the propounding party, specifically describing the privileged document and explaining why the document is privileged. (*Wellpoint Health Network Inc. v. Superior Court, supra,* 59 Cal.App.4th at 130; Code Civ. Proc., § 2031.240.)

Defendants did not meet their burden to justify their objections. Defendants have not demonstrated that a privacy log has been provided. The court intends to grant the motion to compel as to these responses, whereby defendants should provide further, code-compliant responses and serve a privilege log if they intend to maintain the privilege objections.

"Improper Attempt to Limit Their Production to "Relevant" Documents"
Mr. Wallace: RFP Nos. 3-23, 26, 30-32, 39-41, 48-49, 56-58, 60-87, 89, 91-102, 110-111, 119, 127-128 & 136-316
Mrs. Wallace: RFP Nos. 3-8, 17-228, 233-235, 240, 247-249, 254-256, 258-285, 292, 299 & 306

Plaintiff argues that it is improper for defendants to make a determination of what is "relevant" and must provide all documents (without consideration of relevance) in a requested category. However, where defendant has provided substantive responses with which plaintiff is not satisfied, it is plaintiff's burden to show why he is entitled to further documents and demonstrate their relevance to the subject matter with specific facts justifying discovery. Plaintiff in his separate statement factually demonstrates why further documents are relevant and necessary for discovery, and defendants did not oppose or meet their burden to justify their objections.

Monetary Sanctions

Unless the one subject to the sanction acted with substantial justification or other circumstances make the imposition of the sanction unjust, sanctions are mandatory. (Code Civ. Proc. § 2031.300 subd. (c).)

There has been significant delay following multiple extensions to provide amended supplemental responses, which defendants on multiple occasions agreed to provide. To date, plaintiff states no code-compliant amended supplemental responses have been provided and defendants have not demonstrated otherwise. Sanctions are warranted here.

However, the court intends to reduce the amount of sanctions awarded, as $14,784.00 is excessive. Plaintiff propounded 306 and 316 requests for production of documents respectively on each defendant, which seemingly requires more time than usual spent on both sides in regard to these requests for production. The court finds it reasonable to reduce plaintiff's counsel's time to 20 hours at $300.00/hour. The cost of this motion was $60.00. Sanctions will be in the amount of $6,060.00.

Pursuant to California Rules of Court, rule 3.1312(a), and Code of Civil Procedure section 1019.5, subdivision (a), no further written order is necessary. The minute order adopting this tentative ruling will serve as the order of the court and service by the clerk will constitute notice of the order.

Tentative Ruling
Issued By: KCK on 03/10/25.
(Judge's initials) (Date)