PLACER COUNTY SUPERIOR COURT
CIVIL LAW AND MOTION TENTATIVE RULINGS
TUESDAY, APRIL 29, 2025

These are the tentative rulings for civil law and motion matters set at **8:30 a.m. on Tuesday, April 29, 2025**. The tentative ruling will be the court's final ruling unless notice of appearance and request for oral argument are given to all parties and the court by **4:00 p.m., Monday, April 28, 2025**. Notice of request for oral argument to the court must be made by calling (916) 408-6481. Requests for oral argument made by any other method will not be accepted. Prevailing parties are required to submit orders after hearing to the court within 10 court days of the scheduled hearing date, and after approval as to form by opposing counsel. Court reporters are not provided by the court. Parties may provide a court reporter at their own expense.

Except as otherwise noted, these tentative rulings are issued by the **HONORABLE TRISHA J. HIRASHIMA** and if oral argument is requested, it will be heard in **Department 42**, located at 10820 Justice Center Drive, Roseville, California 95678.

PLEASE NOTE: REMOTE APPEARANCES ARE STRONGLY ENCOURAGED FOR ALL CIVIL LAW AND MOTION MATTERS. (Local Rule 10.24.) More information is available at the court's website: www.placer.courts.ca.gov.

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1. M-CV-0031655 Unifund CCR Partners v. Evans, Debra D

The application for order for sale of dwelling is dropped as moot in light of plaintiff's notice of withdrawal of application for order for sale of dwelling and the acknowledgment of satisfaction of judgment in full each filed April 10, 2025.

2. M-CV-0087159 Wells Fargo Bank, N.A. v. Rice, Leland J

Motion for Judgment on the Pleadings

Plaintiff moves for judgment on the pleadings as against defendant. Defendant did not file any opposition to the instant motion.

Plaintiff's request for judicial notice is granted.

The unopposed motion is granted. A court may grant a motion for judgment on the pleadings in favor of a plaintiff where the complaint states facts sufficient to constitute a cause of action, and the answer does not state facts sufficient to constitute a defense to the complaint. (Code Civ. Proc., § 438, subd. (c)(1)(A).) The grounds for the motion must appear on the face of the challenged pleading or be based on facts which the court may judicially notice. (*Id.* at subd. (d).) The court may take judicial notice of a

defendant's uncontroverted admissions in responses to request for admissions or interrogatories. (*Arce v. Kaiser Foundation Health Plan, Inc.* (2010) 181 Cal.App.4th 471, 485.) Here, plaintiff's complaint alleges facts sufficient to constitute causes of action for breach of written contract, breach of implied-in-fact contract, common counts money lent, common counts money paid, common counts open book, and common counts account stated. Defendant's answer admits all of the statements of the complaint without exception. Judgment on the pleadings is appropriate in these circumstances.

Judgment is entered for plaintiff as against defendant in the amount of $7,221.70 in damages and costs of $430.00 for a total of $7,651.70.

In light of the court's above ruling, the case management conference scheduled for July 14, 2025 is hereby vacated.

3. M-CV-0090465 Cedar Grove Mobile Home Park v. Young, Charles

Application for Stay of Execution of Judgment

Defendants seek a stay of execution of judgment through May 24, 2025 based on hardship. Plaintiff opposes the request. The court has considered the briefing and exercises its discretion to grant defendants' application in part. Execution of judgment in this matter is stayed until Friday, May 2, 2025 at 11:59 p.m. This stay is conditioned upon defendants' deposit of $42 with the clerk of the court, in the form of cash, money order, or certified check, as fair market rental value of the additional stay period. Defendants' deposit is due to the clerk of the court no later than Tuesday, April 29, 2025 at 3:00 p.m. If the required payment is not timely made, this order shall automatically expire.

4. M-CV-0090929 Rice, Breanne v. Allen, Nathan

Application for Stay of Execution of Judgment

Defendants request a stay of execution of judgment through June 1, 2025 claiming hardship. Preliminarily, a review of the court's file reveals no evidence defendants served the court order setting this hearing on plaintiff. In addition to this procedural deficiency, the application is substantively deficient as well. While defendants indicate they do not currently have the finances to relocate from the premises, defendants also indicate there is a house that is currently available for them to move into but that it will need fixing. As it appears defendants do have a place to relocate to, defendants fall short of showing sufficient hardship to justify a further stay. The application for further stay based on hardship is accordingly denied. The stay of execution of judgment expires on April 29, 2025 at 11:59 p.m.

5. S-CV-0045044 Ramondino, Stephen v. Whitman, Adrianna

This tentative ruling is issued by the **Honorable Suzanne I. Gazzaniga**. If oral argument is requested, it will be heard on **April 29, 2025 at 8:30 a.m. in Department 43**. Department 43 is located at 10820 Justice Center Drive, Roseville, California 95678.

Motion to Strike Costs

Defendant and cross-complainant Adrianna Whitman is advised the notice of motion must include notice of the court's tentative ruling procedures. (Local Rule 20.2.3(C).)

Whitman moves to strike plaintiff and cross-defendant Stephen Ramondino's costs memorandum filed December 2, 2024 in its entirety. Ramondino opposes the motion.

"Except as otherwise expressly provided by statute, a prevailing party is entitled as a matter of right to recover costs in any action or proceeding." (Code Civ. Proc., § 1032, subd. (b).) Code of Civil Procedure section 1033.5 specifies allowable costs and prohibited costs. (Code Civ. Proc., § 1033.5, subds. (a) [allowable costs], (b) [disallowed costs].) Costs neither allowed nor disallowed "may be allowed or denied in the court's discretion" provided they are "reasonably necessary to the conduct of the litigation rather than merely convenient or beneficial to its preparation" and "reasonable in amount." (Code Civ. Proc., § 1033.5, subds. (c)(4), (c)(2)–(3).) "If the items appearing in a cost bill appear to be proper charges, the burden is on the party seeking to tax costs to show that they were not reasonable or necessary." (*Ladas v. Cal. State Auto. Ass'n* (1993) 19 Cal.App.4th 761, 774.) "On the other hand, if the items are properly objected to, they are put in issue and the burden of proof is on the party claiming them as costs." (*Id.* at pp. 774–76.)

After bench trial, the court found in favor of Ramondino and as against Whitman on both the complaint and first amended cross-complaint and issued a judgment accordingly. (Judgment filed Nov. 5, 2024.) Ramondino is the prevailing party and entitled to recover allowable costs. Whitman does not object to any particular cost as disallowed or that the amount is unreasonable. Whitman objects to the entirety of the costs memorandum contending this litigation is subject to Whitman's bankruptcy discharge pursuant to Title 11 of the United States Code, section 524(a)(2) and (a)(3). As there was a judicial lien on the funds at issue in this action, bankruptcy does not preclude the litigation or the memorandum of costs. (11 U.S.C., § 101(36); *McCready v. Whorf* (2015) 235 Cal.App.4th 478, 481; *Songer v. Cooney* (1989) 214 Cal.App.3d 387, 391.)

Based on the foregoing, the motion to strike costs is denied. Ramondino is entitled to costs in the amount of $1,329.40.

Motion for Attorney's Fees

Plaintiff and cross-defendant Stephen Ramondino moves for an award of attorney's fees as against defendant and cross-complainant Adrianna Whitman in the amount of $135,228.41. Whitman opposes the motion.

Preliminarily, Whitman requests the opportunity to submit supplemental briefing after the hearing on the motion for attorney's fees. Whitman provides no citation to authority to support such a request. Whitman also requests the court issue a statement of decision. However, a statement of decision is not required upon decision of a motion for attorney's fees. (*LCPFV, LLC v. Somatdary, Inc.* (2024) 106 Cal.App.5th 743, 759; *Maria P. v. Riles* (1987) 43 Cal.3d 1281, 1294.) Whitman's requests are denied.

Whitman's request for judicial notice filed February 21, 2025 is granted as to the fact of the date of filing of Whitman's motion to strike costs filed December 17, 2024 and as to the fact of the date of filing of Whitman's reply to her motion to strike costs filed February 18, 2025. The court does not take judicial notice of the content of the documents, the arguments or declared information presented therein.

In this case, Ramondino sued Whitman for breach of contract and Whitman counter sued for breach of contract. The contract both pleadings were based on is a "Non-Marital Cohabitation Agreement" and paragraph 16 therein contained an attorney's fee provision:

> "In the event of litigation to enforce the rights under this agreement, the prevailing party shall be entitled to reasonable attorney fees and costs of suit."

After a bench trial, the court found in favor of Ramondino as against Whitman on both the complaint and first amended cross-complaint and issued a judgment accordingly. (Judgment filed Nov. 5, 2024.) Ramondino was determined to be the prevailing party. A prevailing party in an action on contract is entitled to recover reasonable attorney's fees where the contract provides for their recovery. (Civ. Code, § 1717, subd. (a).) Accordingly, Ramondino is entitled to recover reasonable attorney's fees.

The court must next address whether the request for $135,228.41 is reasonable. Determining the reasonable amount of attorney's fees begins with the lodestar method, that is, the number of hours reasonably expended multiplied by the reasonable hourly rate. (*PLCM Group v. Drexler* (2000) 22 Cal.4th 1084, 1095; *Serrano v. Priest* (*Serrano III*) (1977) 20 Cal.3d 25, 48–49.) The lodestar figure may then be adjusted, based upon factors specific to the case, to fix the fees at a fair market value for the legal services provided. (*PLCM Group v. Drexler*, *supra*, 22 Cal.4th at p. 1095.)

Whitman argues attorney's fees are not recoverable because this litigation is subject to Whitman's bankruptcy discharge pursuant to Title 11 of the United States Code, section 524(a)(2) and (a)(3). The court has consistently rejected this argument. (Ruling on submitted matter, filed Dec. 12, 2023; Statement of Decision, Sept. 17, 2024.) Whitman also argues the fee award requested is unreasonable as no one should reasonably expend

more than $100,000 in fees when the outcome at trial was so small. She does not challenge any specific fees.

The court has carefully reviewed the declarations of counsel Rory S. Coetzee and John M. Latini. The court finds reasonable the hourly rates of counsel Coetzee and other members of his firm (ranging from $275 to $350 per hour) and counsel Latini (ranging from $305 to $395 during the course of representation). No declaration of counsel Shumway is provided. The fees for counsel Shumway are denied as they are not sufficiently supported by way of declaration from attorney Shumway.

Turning next to the question of whether the number of hours expended are reasonable, the court has carefully reviewed the invoices attached to the declarations of counsel Latini and counsel Coetzee. This action was pending for many years, involved not insignificant motion practice, and the matter was heard during a multi-day court trial with significant post-trial briefing. At trial Ramondino prevailed on his complaint for damages and he also successfully defended Whitman's first amended cross-complaint seeking damages of $2.5 million. As to the fees requested by counsel Coetzee, the court observes the invoices reveal some of the line items appear to relate to the family law case rather than the breach of contract case, some of the work is insufficiently supported or explained, and some of the line items appear to be administrative work that does not justify such billing or work that does not appear necessary to the action. Accordingly, a reduction in fees is warranted. The court reduces fees for counsel Coetzee by $8,100. As to the fees requested by counsel Latini, the court observes the invoices reveal some of the line items appear to relate to the family law case rather than the breach of contract case, some of the work is insufficiently supported or explained, some of the work appears duplicative, and some of the line items appear to be administrative work that does not justify such billing. Accordingly, a reduction in fees is warranted. The court reduces fees for counsel Latini by $22,346.

Accordingly, Ramondino is awarded attorney's fees in the amount of $100,792.41.

6. S-CV-0048531 W1 Holdings v. Federal Nat'l Mortgage Ass'n

Motion for Sanctions

Defendant Rushmore Loan Management Services, LLC moves for terminating sanctions as against plaintiff Dustin Wise. No opposition has been filed.

Courts may impose sanctions pursuant to Code of Civil Procedure section 2023.030 against a party who misuses the discovery process. (Code Civ. Proc., § 2023.030.) Examples of misusing the discovery process include, but are not limited to: failing to respond to an authorized method of discovery and disobeying court orders to produce discovery. (*Id.*, § 2023.010, subds. (d), (g).) Terminating sanctions are an extreme sanction for those cases where misuses of the discovery process are so pervasive that a less drastic sanction will not sufficiently address the discovery derelictions. (*Deyo v.*

Kilbourne (1978) 84 Cal.App.3d 771, 796–97.) In light of the extreme effect of terminating sanctions, courts do not impose such a sanction lightly.

Here, defendant presents evidence plaintiff failed to respond to defendant's requests for production of documents, set one. Defendant moved to compel responses, responsive documents, and for monetary sanctions, which plaintiff did not oppose. The court granted the motion to compel and for monetary sanctions. Defendant presents evidence plaintiff failed to abide by the court's order as no responses or responsive documents have been produced and the monetary sanctions have not been paid. Defendant also presents evidence that plaintiff did not appear at an order to show cause hearing re service and dismissal on December 9, 2024. The court further observes plaintiff did not appear at a continued order to show cause hearing that took place on March 24, 2025 after the instant motion was filed. Furthermore, plaintiff filed no opposition to the instant motion.

The court finds plaintiff misused the discovery process by failing to respond to authorized methods of discovery and disobeying the court's order compelling responses and responsive documents. Plaintiff's conduct warrants terminating sanctions as it appears to the court no less drastic sanction would compel plaintiff's compliance with his discovery obligations. For the foregoing reasons, defendant's unopposed motion for terminating sanctions is granted and plaintiff Dustin Wise's third amended complaint filed December 8, 2023 is dismissed as against defendant Rushmore Loan Management Services, LLC.

Motion for Sanctions

Defendant Rushmore Loan Management Services, LLC moves for terminating sanctions as against plaintiff Katherine Wise. No opposition has been filed.

Courts may impose sanctions pursuant to Code of Civil Procedure section 2023.030 against a party who misuses the discovery process. (Code Civ. Proc., § 2023.030.) Examples of misusing the discovery process include, but are not limited to: failing to respond to an authorized method of discovery and disobeying court orders to produce discovery. (*Id.*, § 2023.010, subds. (d), (g).) Terminating sanctions are an extreme sanction for those cases where misuses of the discovery process are so pervasive that a less drastic sanction will not sufficiently address the discovery derelictions. (*Deyo v. Kilbourne* (1978) 84 Cal.App.3d 771, 796–97.) In light of the extreme effect of terminating sanctions, courts do not impose such a sanction lightly.

Here, defendant presents evidence plaintiff failed to respond to defendant's requests for production of documents, set one. Defendant moved to compel responses, responsive documents, and for monetary sanctions, which plaintiff did not oppose. The court granted the motion to compel and for monetary sanctions. Defendant presents evidence plaintiff failed to abide by the court's order as no responses or responsive documents have been produced and the monetary sanctions have not been paid. Defendant also presents evidence that plaintiff did not appear at an order to show cause hearing re service and dismissal on December 9, 2024. The court further observes plaintiff did not appear at a

continued order to show cause hearing that took place on March 24, 2025 after the instant motion was filed. Furthermore, plaintiff filed no opposition to the instant motion.

The court finds plaintiff misused the discovery process by failing to respond to authorized methods of discovery and disobeying the court's order compelling responses and responsive documents. Plaintiff's conduct warrants terminating sanctions as it appears to the court no less drastic sanction would compel plaintiff's compliance with her discovery obligations. For the foregoing reasons, defendant's unopposed motion for terminating sanctions is granted and plaintiff Katherine Wise's third amended complaint filed December 8, 2023 is dismissed as against defendant Rushmore Loan Management Services, LLC.

Motion for Sanctions

Defendant Rushmore Loan Management Services, LLC moves for terminating sanctions as against plaintiff W1 Holdings. No opposition has been filed.

Courts may impose sanctions pursuant to Code of Civil Procedure section 2023.030 against a party who misuses the discovery process. (Code Civ. Proc., § 2023.030.) Examples of misusing the discovery process include, but are not limited to: failing to respond to an authorized method of discovery and disobeying court orders to produce discovery. (*Id.*, § 2023.010, subds. (d), (g).) Terminating sanctions are an extreme sanction for those cases where misuses of the discovery process are so pervasive that a less drastic sanction will not sufficiently address the discovery derelictions. (*Deyo v. Kilbourne* (1978) 84 Cal.App.3d 771, 796–97.) In light of the extreme effect of terminating sanctions, courts do not impose such a sanction lightly.

Here, defendant presents evidence plaintiff failed to respond to defendant's requests for production of documents, set one. Defendant moved to compel responses, responsive documents, and for monetary sanctions, which plaintiff did not oppose. The court granted the motion to compel and for monetary sanctions. Defendant presents evidence plaintiff failed to abide by the court's order as no responses or responsive documents have been produced and the monetary sanctions have not been paid. Defendant also presents evidence that plaintiff did not appear at an order to show cause hearing re service and dismissal on December 9, 2024. The court further observes plaintiff did not appear at a continued order to show cause hearing that took place on March 24, 2025 after the instant motion was filed. Furthermore, plaintiff filed no opposition to the instant motion.

The court finds plaintiff misused the discovery process by failing to respond to authorized methods of discovery and disobeying the court's order compelling responses and responsive documents. Plaintiff's conduct warrants terminating sanctions as it appears to the court no less drastic sanction would compel plaintiff's compliance with its discovery obligations. For the foregoing reasons, defendant's unopposed motion for terminating sanctions is granted and plaintiff W1 Holdings' third amended complaint filed December 8, 2023 is dismissed as against defendant Rushmore Loan Management Services, LLC.

7. S-CV-0050129 Uyeda, Masako Connie v. Benson, Gary Lynn

The motion for summary judgment is dropped from calendar as no moving papers were filed with the court.

8. S-CV-0050153 Firestone Financial LLC v. Singh, Jugtar

Plaintiff is advised the notice of motion must include notice of the court's tentative ruling procedures. (Local Rule 20.2.3(C).)

Application for Writ of Possession

Plaintiff applies for a temporary restraining order and a writ of possession for one 2014 Utility with new TK S-600 Reefer Trailer with VIN 1UYVS2536EU772874 and one 2016 Freightliner Cascadia 125 Evolution Sleeper with VIN 3AKJGLDRXGSGW7161. Defendant has not filed any opposition to the instant request or otherwise appeared in the action.

A notice of application and hearing and a copy of the application and any affidavit in support thereof shall be served on defendant. (Code Civ. Proc., § 512.030, subd. (a).) Moreover, a defendant who has not appeared in the action must be served in the same manner as a summons. (*Id.* at subd. (b).) There is no evidence in the court's file the instant application and supporting documents were served on defendant as required. Accordingly, the application for issuance of a writ of possession is denied without prejudice.

As to the request for temporary restraining order, while a temporary restraining order can be granted on an ex parte basis (Code Civ. Proc., § 513.010), in light of the above ruling on the application for writ of possession, the application for temporary restraining order is likewise denied without prejudice. (Code Civ. Proc., § 513.010, subd. (c).)

9. S-CV-0050961 Yanez, Frank v. Foothill Fire Protection Inc.

Motion for Summary Judgment or, in the Alternative, Summary Adjudication

Defendant moves for summary judgment or, in the alternative, summary adjudication of plaintiff's complaint. Plaintiff opposes the motion.

Evidentiary Rulings

Plaintiff's objections to defendant's evidence are overruled. Plaintiff's objections to the information submitted with defendant's reply are likewise overruled.

Ruling on the Motion

A party is entitled to bring a motion for summary judgment where there are no triable issues of fact and the moving party is entitled to judgment as a matter of law. (Code Civ. Proc., § 437c, subd. (c).) The defendant bears the initial burden of establishing that one or more elements of the cause of action cannot be established or that there is a complete defense to the cause of action. (*Id.* subd. (p)(2).) Only when this initial burden is met does the burden shift to the opposing party to show a triable issue of material fact. (*Ibid.*) A party may move for summary adjudication as to one or more causes of action if the party contends the cause of action has no merit. (*Id.* subd. (f)(1).) A party may move for summary adjudication as an alternative to summary judgment and shall proceed in all procedural respects as a motion for summary judgment. (*Id.* subd. (f)(2).) In reviewing a motion for summary judgment, the court must view the supporting evidence, and inferences reasonably drawn from such evidence, in the light most favorable to the opposing party. (*Aguilar v. Atlantic Richfield Co.* (2001) 25 Cal.4th 826, 843.) The court reviews the motion with these principles in mind.

Defendant's Evidence in Support of Motion

Defendant presents evidence plaintiff has a disability (PTSD, plantar fasciitis, and he experiences mobility issues). (SSUMF No. 3.) Plaintiff has a dog he uses as a service animal, a German Shepard/Golden Retriever mix named Oogie. (SSUMF Nos. 1–2.) The only service animal training Oogie has received has come from plaintiff, and plaintiff has no training in training service animals. (SSUMF Nos. 4–7.) On March 8, 2022, after an interview, defendant offered plaintiff a job as a fire alarm designer; plaintiff accepted the position and resigned from his prior employment. (SSUMF Nos. 13, 19–20.) Several days after plaintiff accepted the job offer, defendant contacted plaintiff's former employer and discovered there was a prior incident where plaintiff's dog Oogie bit plaintiff's coworker. (SSUMF Nos. 22, 9–11.) Defendant became concerned that Oogie would harm defendant's employees. (SSUMF No. 23.) Defendant discovered its insurance policy excluded damages caused by animals and that its client contracts prohibited animals on the work site. (SSUMF No. 24.) Defendant and plaintiff discussed reasonable accommodations by phone, where plaintiff stated in the past the dog would not go to job sites with him and could stay in plaintiff's vehicle and if plaintiff experienced a PTSD trigger he could go to his vehicle so Oogie could calm him down. (SSUMF Nos. 25–29.) Remote work for this position is unavailable as constant communication is required and travel to various job sites is required. (SSUMF No. 17.) Defendant rescinded the job offer because the dog had bit an employee at plaintiff's previous employment and because defendant's insurance policy did not cover damages caused by animals. (SSUMF Nos. 30–31.)

Discrimination Claim

As to the first cause of action for disability / Veteran status discrimination under the Fair Employment and Housing Act ("FEHA"), defendant contends plaintiff cannot show defendant harbored a discriminatory intent, which is an element for plaintiff to make a

prima facie showing for discrimination. (*Guz v. Bechtel National, Inc.* (2000) 24 Cal.4th 317, 355.) Defendant presents evidence its withdrawal of the employment offer was for legitimate business reasons: to safeguard the health and safety of its employees in light of the dog bite incident, the financial peril defendant would have been in as defendant's insurance policy did not cover injuries caused by animals, and that defendant's clients prohibited animals on the work site. (SSUMF Nos. 9–11, 22–24.) Defendant points out FEHA does not prohibit discharging an employee with a disability who "cannot perform [his] duties in a manner that would not endanger his or her health or safety or the health or safety of others even with reasonable accommodations." (Gov. Code, § 12940, subd. (a)(1).) This is sufficient to meet defendant's initial burden as to the first cause of action. The burden therefore shifts to plaintiff to show one or more triable issue of material fact.

Plaintiff presents evidence by way of responsive separate statement ("RSSUMF") and additional material facts ("Pltf's SSAUMF") to attack defendant's purported non-discriminatory business reasons as pretext. Plaintiff presents evidence Oogie completed training to become a certified service dog after the dog bite incident and before defendant made plaintiff an employment offer. (Pltf's SSAUMF Nos. 16–17, 49–54, 58.) Defendant characterizes this evidence as immaterial. However, as the assessment of whether a service animal poses a threat to the health or safety of others requires consideration of "[t]he nature, duration, and severity of the risk of a direct threat to the health and safety of others" and "the likelihood that a direct threat to the health and safety of others . . . will actually occur" (2 Cal. Code Regs., § 12185, subd. (d)(9)(C)), the intervention of training raises a triable issue as to defendant's purported business reason. As to undue burden, plaintiff presents evidence defendant did not investigate or contact its insurance broker to determine whether its coverage excluded *service* animals. (Pltf's SSAUMF Nos. 64–71.) Plaintiff also presents evidence defendant's client contracts do not prevent plaintiff from bringing a "service" animal onto work sites, but rather exclude "pets" from work sites. (Pltf's SSAUMF No. 87.) The court observes California state law provides an assistant animal "is not a pet." (2 Cal. Code Regs., § 12005, subd. (d).) Finally, plaintiff presents evidence defendant did not perform any cost analysis of how much it would cost to provide any accommodation to plaintiff. (Pltf's SSAUMF Nos. 64–66, 81.) Plaintiff has sufficiently attacked the non-discriminatory business reasons for defendant's conduct to raise triable issues of material fact as to the discrimination claim.

Failure to Accommodate

As to plaintiff's second cause of action for failure to accommodate under FEHA, defendant contends entitlement to judgment because defendant did not fail to reasonably accommodate plaintiff's disability because no reasonable accommodation existed. All potential solutions constituted undue hardship for defendant (remote work, obtaining different insurance coverage) or endangered defendant's other employees (permitting Oogie on the premises). (SSUMF Nos. 9–11, 17, 22–24.) Defendant sufficiently meets its initial burden as to the second cause of action and the burden therefore shifts to plaintiff.

Plaintiff's evidence in support of triable issues as to the first cause of action (summarized *supra*) also applies to the second cause of action. (Pltf's SSAUMF Nos. 16–17, 49–54,

58, 64–71, 81, 87.) Additionally, plaintiff presents evidence that remote work is available in the same field with at least two other companies and that plaintiff's position with defendant required 15% of the time to be in the field and 85% to be in the office or remote. (Pltf's SSAUMF Nos. 18, 21, 74–75.) Defendant has other employees who work remotely but not as an accommodation. (Pltf's SSAUMF No. 76.) Defendant claims remote work would be inefficient but never determined what financial impact remote work would have on defendant's operations. (Pltf's SSAUMF No. 81.) The court observes California state law defines "reasonable accommodations" to include "Allowing applicants or employees to bring assistive animals to the work site," "Modifying an employer policy," and "Permitting an employee to work from home." (2 Cal. Code Regs., § 11065, subd. (p)(2)(B), (*I*), (L).) Plaintiff sufficiently raises triable issues of material fact as to whether any reasonable accommodation existed for the second cause of action.

Failure to Engage in an Interactive Process

As to the third cause of action, defendant contends entitlement to judgment because the undisputed facts show that it engaged in the interactive process. FEHA requires an employer "to engage in a timely, good faith, interactive process with the employee or applicant to determine effective reasonable accommodations, if any, in response to a request for reasonable accommodation by an employee or applicant with a known physical or mental disability or known medical condition." (Gov. Code, § 12940, subd. (n).) At plaintiff's interview, the parties discussed reasonable accommodations and defendant indicated plaintiff's desk could be situated so he could see the entrances and exits and was told there's room for a dog bed under the desk. (SSUMF No. 15.) The parties thereafter discussed reasonable accommodations by phone, where plaintiff stated Oogie would not go to job sites with him and could stay in plaintiff's vehicle; if plaintiff experienced a PTSD trigger he could go to his vehicle so Oogie could calm him down. (SSUMF Nos. 25–29.) It appears defendant did not further consider this offer and ultimately determined no reasonable accommodation existed due to its insurance policy, its client contracts, the need to safeguard its employees' safety, and the unavailability of remote work for this position. The court observes California state law defines "reasonable accommodations" to include "Allowing applicants or employees to bring assistive animals to the work site," "Modifying an employer policy," and "Permitting an employee to work from home." (2 Cal. Code Regs., § 11065, subd. (p)(2)(B), (*I*), (L).) No evidence is presented that defendant considered modifying its policy to permit remote working or a hybrid remote work schedule. It is questionable from defendant's evidence whether it truly engaged in good faith in efforts to try to find a reasonable accommodation and questionable that no reasonable accommodation exists.

Nonetheless, even if defendant had met its initial burden, plaintiff nonetheless raises triable issues of material fact. The follow-up phone call between the parties to discuss reasonable accommodations lasted a "couple of minutes." (Pltf's SSAUMF No. 89.) Plaintiff presents evidence remote work is available in the same field with at least two other companies and that plaintiff's position with defendant required 15% of the time to be out in the field and 85% to be in the office or remote. (Pltf's SSAUMF Nos. 18, 21, 74–75.) Defendant has other employees who work remotely but not as an

accommodation. (Pltf's SSAUMF No. 76.) Defendant claims remote work would be inefficient but never determined what financial impact remote work would have on defendant's operations. (Pltf's SSAUMF No. 81.) Plaintiff sufficiently raises one or more triable issues of material fact as to whether defendant engaged in the interactive process in good faith as FEHA requires.

Retaliation

As to the fourth cause of action, defendant contends entitlement to judgment because plaintiff is unable to show discrimination was a substantial motivating factor for the adverse employment action. (*Alamo v. Practice Mgmt. Info. Corp.* (2013) 219 Cal.App.4th 466, 480.) Defendant argues its conduct was not motivated by discrimination but rather for legitimate business reasons: to safeguard the health and safety of other employees in light of the dog bite incident, the financial peril defendant would have been in as defendant's insurance policy did not cover injuries caused by animals, and that defendant's clients prohibited animals on the work site. For the same reasons as outlined in the first cause of action (see *supra*), defendant sufficiently met its initial burden (SSUMF Nos. 9–11, 22–24) and plaintiff sufficiently met his burden of challenging the legitimate business reasons and showing one or more triable issues of material fact (Pltf's SSAUMF Nos. 16–17, 49–54, 58, 64–71, 81).

Failure to Prevent Discrimination

As to the fifth cause of action, defendant contends entitlement to judgment because this claim is derivative of plaintiff's other FEHA claims. As plaintiff's other FEHA claims fail, as does this claim. However, as plaintiff's other FEHA claims survive summary judgment for the reasons explained above, as does the fifth cause of action.

Failure to Hire / Wrongful Termination in Violation of Public Policy

As to the sixth cause of action, defendant's only argument is that it did not violate public policy or FEHA by withdrawing plaintiff's job offer. As there are triable issues that defendant did violate FEHA and therefore public policy, this claim survives as well.

Based on the foregoing, the motion for summary judgment is denied. The motion for summary adjudication is denied.

10. S-CV-0051229 Pham, Quoc v. Petkova, Neli

If oral argument is requested, it will be heard in Department 42 before the Honorable Trisha J. Hirashima. Department 42 is located at **10820 Justice Center Drive, Roseville, California 95678**.

Plaintiff is advised the notice of motion must include notice of the court's tentative ruling procedures. (Local Rule 20.2.3(C).)

Motion to Consolidate

Plaintiff Quoc Pham moves to consolidate S-CV-0051229 ("the first action") with S-CV-0053720 ("the second action") contending the two actions involve common questions of law and fact and consolidation would serve judicial economy. No opposition has been filed.

The court may order consolidation of actions involving a common question of law or fact. (Code Civ. Proc., § 1048, subd. (a).) "The discretion granted to the court must necessarily be broad and will not be interfered with on appeal, except for an abuse thereof." (*Nat'l Elec. Supply Co. v. Mt. Diablo Unified Sch. Dist.* (1960) 187 Cal.App.2d 418, 421.) Here, the two actions involve overlapping parties but not identical parties. Quoc Pham is the plaintiff in both actions and Neli Petkova is a named defendant of each action. However, defendant Raphael Pham is only a named defendant in the second action and defendant Borislav Velikov is only a named defendant in the first action. The two actions involved common questions of law and fact. However, the first action has been pending since September 2023. Default has been entered against all named defendants and the matter has been pending a default prove-up hearing. The second action is procedurally distinguished, as there is no evidence the summons and complaint have been served on any party and the matter is not at issue. In light of the different procedural posture of each case, the court declines to exercise its discretion. The motion is denied.

11. S-CV-0052505 Deza, Nicole v. Euro Snack Inc.

If oral argument is requested, it will be heard in **Department 42** before the **Honorable Trisha J. Hirashima**. Department 42 is located at 10820 Justice Center Drive, Roseville, CA 95661.

Plaintiff is advised the notice of motion must include notice of the court's tentative ruling procedures. (Local Rule 20.2.3(C).)

Motion for Preliminary Approval

The court has broad discretion in determining whether a class action settlement is (1) fair and reasonable, (2) the class notice is adequate, and (3) certification of the class is proper. (*In re Cellphone Fee Termination Cases* (2010) 186 Cal.App.4th 1380, 1389.) Further,

the court reviews the moving papers along with the entirety of the court file to determine that the settlement is genuine, meaningful, and consistent with the underlying purposes of the PAGA-related statute. (Lab. Code, § 2699(*l*); *O'Connor v. Uber Technologies, Inc.* (N.D. Cal. 2016) 201 F.Supp.3d 1110.) The court must also determine whether the PAGA settlement appears fundamentally fair, reasonable, and adequate. (*Ibid.*)

The court has carefully considered the class action and PAGA settlement agreement and plaintiff's moving papers filed in connection with the motion, as well as the entire court file. The court determines a sufficient showing has been made that the settlement is fair, reasonable, genuine, meaningful, and consistent with the purpose of PAGA.

For the purposes of the settlement, the court hereby certifies the class as "all persons who worked for defendant in California as hourly paid, non-exempt employees during the Class Period" from March 25, 2020 through the date the court grants preliminary approval on April 29, 2025.

The court preliminarily approves the class action and PAGA action settlement agreement attached as Exhibit 1 to the declaration of counsel Lilit Tunyan. The court also approves the proposed form of the notice.

The court appoints and designates Nicole Deza as the class representative. The court appoints and designates Tunyan Law, APC and The Sentinel Firm, APC as class counsel for the purpose of settlement. The court appoints and designates Apex Class Action LLC as the settlement administrator. The court also incorporates by reference all findings and orders set forth in the Proposed Order submitted in connection with the instant motion.

The final approval hearing is scheduled for **September 16, 2025 at 8:30 a.m. in Department 42**. The motion for final approval shall be filed and served in accordance with Code of Civil Procedure section 1005(b).

In light of the above, the court on its own motion vacates the case management conference scheduled for June 9, 2025.

12. S-CV-0052743 Pac 26 CA 2021 LLC v. Dollar Point Ass'n Inc.

Defendant's motion for summary judgment and plaintiff's motion for judgment on the pleadings are continued to be heard **May 20, 2025 at 8:30 a.m. in Department 42**. The court apologizes to the parties for any inconvenience.

13. S-CV-0053139 Hollinghead, Shirley v. Zebra Cleaning Services, Inc.

The two demurrers to the first amended complaint are continued to be heard **May 6, 2025 at 8:30 a.m. in Department 42**. The court apologizes to the parties for any inconvenience.

14. S-CV-0053711 City of Lincoln v. The Gathering Inn

The two demurrers to the first amended complaint are continued to be heard **May 6, 2025 at 8:30 a.m. in Department 42**. The court apologizes to the parties for any inconvenience.

15. S-CV-0053720 Pham, Quoc v. Petkova, Neli

If oral argument is requested, it will be heard in Department 42 before the Honorable Trisha J. Hirashima. Department 42 is located at **10820 Justice Center Drive, Roseville, California 95678**.

Plaintiff is advised the notice of motion must include notice of the court's tentative ruling procedures. (Local Rule 20.2.3(C).)

Motion to Consolidate

Plaintiff Quoc Pham moves to consolidate S-CV-0051229 ("the first action") with S-CV-0053720 ("the second action") contending the two actions involve common questions of law and fact and consolidation would serve judicial economy. No opposition has been filed.

The court may order consolidation of actions involving a common question of law or fact. (Code Civ. Proc., § 1048, subd. (a).) "The discretion granted to the court must necessarily be broad and will not be interfered with on appeal, except for an abuse thereof." (*Nat'l Elec. Supply Co. v. Mt. Diablo Unified Sch. Dist.* (1960) 187 Cal.App.2d 418, 421.) Here, the two actions involve overlapping parties but not identical parties. Quoc Pham is the plaintiff in both actions and Neli Petkova is a named defendant of each action. However, defendant Raphael Pham is only a named defendant in the second action and defendant Borislav Velikov is only a named defendant in the first action. The two actions involved common questions of law and fact. However, the first action has been pending since September 2023. Default has been entered against all named defendants and the matter has been pending a default prove-up hearing. The second action is procedurally distinguished, as there is no evidence the summons and complaint have been served on any party and the matter is not at issue. In light of the different procedural posture of each case, the court declines to exercise its discretion. The motion is denied.

16. S-CV-0053727 Western Placer Unified School Dist. v. The Gathering Inn

The four demurrers to the first amended complaint are continued to be heard **May 6, 2025 at 8:30 a.m. in Department 42**. The court apologizes to the parties for any inconvenience.

17. S-CV-0053899 Gilbert, Sean Michael v. Magallanes, Emilano Jesmundo

Defendant's Motion to Strike Plaintiff's Claim for Punitive Damages

Defendant moves to strike the claim for punitive damages in plaintiff's complaint on the grounds the complaint does not allege a basis for such relief. (Code Civ. Proc. §§ 435, 436.).

Punitive damages are available "where it is proven by clear and convincing evidence that the defendant has been guilty of oppression, fraud, or malice." (Civ. Code § 3294, subd. (a).) Malice is "conduct which is intended by the defendant to cause injury to the plaintiff or despicable conduct which is carried on by the defendant with a willful and conscious disregard of the rights or safety of others." (*Id.* at § 3294, subd. (c)(1).) Oppression is "despicable conduct that subjects a person to cruel and unjust hardship in conscious disregard of that person's rights." (*Id.* at § 3294, subd. (c)(2).)

Based on the court's review of the complaint as a whole, plaintiff fails to allege sufficient facts to support punitive damages. A finding of malice does not rest on ordinary negligence, or even grossly negligent or reckless conduct. (*Lackner v. North* (2006) 135 Cal.App.4th 1188, 1210-1211.) In cases involving conduct performed without the intent to harm, plaintiff must allege facts showing that defendant was aware of the probable dangerous consequences of his or her conduct, and willfully and deliberately failed to avoid those consequences. (*Taylor v. Superior Court* (1979) 24 Cal.3d 890, 895-896.) In this case, the factual allegations of the complaint are insufficient by themselves to establish oppression, fraud or malice. The court notes that factual statements made in the declaration of counsel cannot be considered in ruling on the motion. (Code Civ. Proc. § 437.)

Plaintiff is granted leave to amend. Any amended complaint shall be filed and served on or before **May 16, 2025**.

18. S-CV-0053961 Olson-Olson Construction v. Glockner, William D Jr.

The demurrer to complaint is continued to be heard on **June 24, 2025 at 8:30 a.m. in Department 42**. The court apologizes to the parties for any inconvenience.

19. S-CV-0054259 Farber, John v. Apples & Honeybees LLC

Motion to Disqualify Defense Counsel

Plaintiffs' motion to disqualify defense counsel is dropped from calendar in light of plaintiffs' notice of taking motion to disqualify off calendar filed April 24, 2025.

Motion to Quash

Defendant Jeffrey A. Slott moves to quash the service of summons and complaint pursuant to Code of Civil Procedure section 418.10.

Plaintiffs' opposition is untimely filed, but the court exercises its discretion and elects to consider all briefing in this matter.

As a preliminary matter, while both the moving papers and the opposition refer to two separate sets of summons and complaint, the moving party is defendant Jeffrey A. Slott, an individual, appearing on his own behalf. Accordingly, the court is only considering the validity of service as to defendant Slott individually.

The motion to quash service of summons as to defendant Slott is granted. Defendant contends plaintiff's service by substitution was defective, as it was effected without any evidence of due diligence to personally serve him and without any evidence the documents were thereafter mailed to defendant. Code of Civil Procedure section 415.20(b) permits service by substitution if the person to be served "cannot with reasonable diligence be personally [served]" and "by thereafter mailing a copy of the summons and complaint . . . ." Here, the proof of service of summons filed January 27, 2025 does not include any declaration of diligence to personally serve the defendant nor is there any declaration of mailing. Plaintiffs contend the service is sufficient relying on Code of Civil Procedure section 415.20(a), which does not require diligence. However, Section 415.20(a) applies to certain specified entity defendants rather than an individual defendant like defendant Slott. For these reasons, the motion to quash service of summons as to defendant Slott is granted.
