December 5, 2025
Dept. 9
Tentative Rulings

1.	**24CV1853**	**BANK OF AMERICA N.A. v. FINDLETON**
Request for Admission be Deemed Admitted		

On February 13, 2025, Plaintiff served a Request for Admissions (RFA") on Defendant as part of discovery in this lawsuit. Defendant has not yet responded to this discovery.

Plaintiff has filed this motion seeking to have the matters specified in the RFA deemed admitted and served notice of the motion on Plaintiff by mail on October 15, 2025. Defendant has filed no opposition to the Motion.

Code of Civil Procedure § 2033.280 addresses the failure to respond to requests for admissions:

> If a party to whom requests for admission are directed fails to serve a timely response, the following rules apply:
>
> (a) The party to whom the requests for admission are directed waives any objection to the requests, including one based on privilege or on the protection for work product under Chapter 4 (commencing with Section 2018.010). The court, on motion, may relieve that party from this waiver on its determination that both of the following conditions are satisfied:
>
> (1) The party has subsequently served a response that is in substantial compliance with Sections 2033.210, 2033.220, and 2033.230.
>
> (2) The party's failure to serve a timely response was the result of mistake, inadvertence, or excusable neglect.
>
> (b) The requesting party may move for an order that the genuineness of any documents and the truth of any matters specified in the requests be deemed admitted, as well as for a monetary sanction under Chapter 7 (commencing with Section 2023.010).
>
> (c) The court shall make this order, unless it finds that the party to whom the requests for admission have been directed has served, before the hearing on the motion, a proposed response to the requests for admission that is in substantial compliance with Section 2033.220. It is mandatory that the court impose a monetary sanction under Chapter 7 (commencing with Section 2023.010) on the party or attorney, or both, whose failure to serve a timely response to requests for admission necessitated this motion.

Plaintiff's motion is granted.

Plaintiff has not requested sanctions for misuse of discovery pursuant to Code of Civil Procedure § 2023.010 ("Misuses of the discovery processes include, but are not limited to ... (d) failing to respond or submit to an authorized method of discovery ... ") and Code of Civil Procedure § 2023.030. ("To the extent authorized by the Chapter governing any particular discovery method or any other provision of this title, the Court, after notice to any affected

party, person or attorney, and after opportunity for hearing, may impose ... sanctions against anyone engaging in conduct that is a misuse of the discovery process ... "). In addition to these provisions, Code of Civil Procedure § 2033.280(c) makes it mandatory that the court impose a monetary sanction on the party or attorney, or both, whose failure to serve a timely response to requests for admission necessitated this motion.

TENTATIVE RULING #1: PLAINTIFF'S MOTION TO DEEM ADMITTED THE MATTERS SPECIFIED IN THE REQUESTS FOR ADMISSION IS GRANTED. SANCTIONS ARE AWARDED IN THE AMOUNT OF $50 AND SHALL BE PAID TO DEFENDANT BY DECEMBER 29, 2025.

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 621-6551 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07; SEE ALSO LEWIS V. SUPERIOR COURT, 19 CAL.4TH 1232, 1247 (1999).

NOTICE TO ALL PARTIES OF A REQUEST FOR ORAL ARGUMENT AND THE GROUNDS UPON WHICH ARGUMENT IS BEING REQUESTED MUST BE MADE BY TELEPHONE OR IN PERSON BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; EL DORADO COUNTY LOCAL RULE 8.05.07. PROOF OF SERVICE OF SAID NOTICE MUST BE FILED PRIOR TO OR AT THE HEARING.

LONG CAUSE HEARINGS MUST BE REQUESTED BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED AND THE PARTIES ARE TO PROVIDE THE COURT WITH THREE MUTUALLY AGREEABLE DATES ON FRIDAY AFTERNOONS AT 2:30 P.M. LONG CAUSE ORAL ARGUMENT REQUESTS WILL BE SET FOR HEARING ON ONE OF THE THREE MUTUALLY AGREEABLE DATES ON FRIDAY AFTERNOONS AT 2:30 P.M. THE COURT WILL ADVISE THE PARTIES OF THE LONG CAUSE HEARING DATE AND TIME BY 5:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. PARTIES MAY PERSONALLY APPEAR AT THE HEARING.

IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM, PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.

2.	**24CV0105**	**COCHRAN v. MARSHALL MEDICAL CENTER**
Motion to Strike Memorandum of Costs / Attorney's Fees		

See related case, Item #3 below.

Chronology

- January 19, 2024 [24CV0105]: Plaintiff, through counsel Bibiyan Law Group ("BLG") filed a class action Complaint asserting claims for various violations of*, inter alia,* the California Labor Code ("Class Complaint").
- February 14, 2024: in an email exchange between Plaintiff's counsel and Defendant's counsel, Gordon Rees ("GR") Plaintiff/BLG was informed that Plaintiff had already entered into a settlement agreement covering all of the claims set forth in the two pending Complaints. Plaintiff/BLG's response was as follows:

> Thank you, Joan. The purported settlement agreement is highly unconscionable and fails the standard set by Labor Code 206.5. We will not be dismissing any of our actions, and do not consider this purported agreement enforceable.

Declaration of Joan C. Woodard, dated November 20, 2025, Exhibit 1.

- March 1, 2024: Defendant engaged in an email exchange with Plaintiff's prior counsel and with BLG in an attempt to resolve the matter prior to the deadline to file an Answer on March 18, 2024. Plaintiff/BLG's response was as follows:

> The claims made by your office are not consistent with our Plaintiff's recollection of events. She does not remember signing any such agreement, being represented by counsel for signing this purported agreement, nor was she paid any settlement amount. Even if such an agreement would have been valid, as mentioned previously, it falls short of the requirements of Labor Code 206.5, and would certainly not be enforceable with regards to her PAGA claims (put aside the serious concerns on conscionability/fairness).

Declaration of Joan C. Woodard, dated November 20, 2025, Exhibit 1.

- March 18, 2024: Defendant/GR filed an Answer to Plaintiff's Class Complaint.
- April 2, 2024 [24CV0676]: Plaintiff/BLG commenced an action under the California Private Attorneys General Act of 2004 ("PAGA Complaint").
- May 9, 2024: Defendant/GR filed an Answer to Plaintiff's PAGA Complaint.
- September 16, 2024 [24CV0105]: Defendant/GR filed a Motion for Protective Order and Stay of discovery and a Motion for Summary Judgment, which the Court later granted
- November 14, 2024 [24CV0105]: Plaintiff/BLG filed leave to file First Amended Complaint

- December 6, 2024 [24CV0676]: Defendant/GR filed Motion for Summary Judgment and for Stay and Protective Order, which the Court later granted
- January 16, 2025/January 23, 2025: BLG filed a motion to be relieved as Plaintiff's counsel in both cases, which was denied on February 28, 2025, and May 30, 2025, respectively, due to lack of service of the motion on Plaintiff, and because of a failure to correctly list upcoming hearing dates on the application.
- April 15, 2025: BLG filed a new motion to be relieved as Plaintiff's counsel in both cases
- May 30, 2025 [24CV0676]: Court found motion for attorney withdrawal moot because summary judgment had been granted
- July 1, 2025 [24CV0676] and July 21, 2025 [24CV0105], respectively, this Court issued Orders Granting Defendant's Motions for Summary Judgment in both cases.

Pre-Judgment Costs

Although Defendant was the prevailing party in the summary judgment motion, Plaintiff argues that 1) the summary judgment motion was not the only motion brought in the action, and 2) the summary judgment motion was unnecessary. Accordingly, Plaintiff argues that the $2,585.00 [24CV0105] and $1,514.25 [24CV0676] claimed by Defendant as costs should not be allowed.

Code of Civil Procedure § 1032(b) provides that "a prevailing party is entitled as a matter of right to recover costs in any action or proceeding." Section 1032(a)(4) defines "prevailing party" for those cases where it is not clear:

> "Prevailing party" includes the party with a net monetary recovery, a defendant in whose favor a dismissal is entered, a defendant where neither plaintiff nor defendant obtains any relief, and a defendant as against those plaintiffs who do not recover any relief against that defendant. If any party recovers other than monetary relief and in situations other than as specified, the "prevailing party" shall be as determined by the court, and under those circumstances, the court, in its discretion, may allow costs or not and, if allowed, may apportion costs between the parties on the same or adverse sides . . . .

"Absent … statutory authority, the court has no discretion to deny costs to the prevailing party." Nelson v. Anderson, 72 Cal. App. 4th 111, 129 (1999).

Code of Civil Procedure § 1033.5 lists both allowable costs and those expenses that are not allowable as costs under the statute, and then allows the Court, in its discretion, to allow other costs not specifically allowed or disallowed elsewhere in the statute. Any costs awarded must be "reasonably necessary to the conduct of the litigation" and "reasonable in amount." Code of Civil Procedure § 1033.5(c).

Burden of proof

California Rules of Court, Rule 3.1700(a)(1) requires the party claiming costs to file a verified memorandum of costs. "If the items appear to be proper charges the verified memorandum is prima facie evidence that the costs, expenses and services therein listed were necessarily incurred by the defendant [citations], and the burden of showing that an item is not properly chargeable or is unreasonable is upon the [objecting party]." Nelson v. Anderson, 72 Cal. App. 4th 111, 131 (1999) (citations omitted).

> However, where the claim is made for a disbursement which on its face does not appear to be proper or is for a disbursement the necessity for which is doubtful, and the item is properly challenged upon a motion to tax costs, the burden is on the claimant to establish the necessity for the disbursement. Moreover, if the correctness of the memorandum is challenged either in whole or in part by the affidavit or other evidence of the contesting party, the burden is then on the party claiming the costs and disbursements to show that the items charged were for matters *necessarily relevant and material to the issues involved in the action.* The determination of the items allowable as costs is largely a question for the trial court in its discretion, and if no abuse of discretion is shown, the action of the trial court will not be disturbed.

Oak Grove Sch. Dist. of Santa Clara Cnty. v. City Title Ins. Co., 217 Cal. App. 2d 678, 698–99 (1963) (citations omitted).

Accordingly, the Court must first determine whether the claimed expense is allowed by statute and whether the expense appears reasonable on its face. If so, the burden is on the objecting party to show them to be unnecessary or unreasonable. Nelson at 131.

Necessity of Costs

Plaintiff argues that the summary judgment motion was an unnecessary cost. Plaintiff argues that Defendant brought the motion after presenting Plaintiff's counsel with the prior settlement agreement asserting that it would resolve the case, but without giving Plaintiff's counsel an opportunity to respond. Plaintiff's counsel argues that there could have been an opportunity to resolve the matter without bringing the summary judgment motion: "Plaintiff's counsel was not given the opportunity to explore other options of resolution, including dismissal, before Defendant filed its motion."

Not only did Plaintiff oppose the summary judgment motion, Plaintiff also filed a motion for leave to amend the Complaint after the summary judgment motion had been filed. When the Court's pre-hearing Tentative Ruling deferred the leave to amend motion until after a decision on the summary judgment, Plaintiff/BLG elected to request oral argument to be allowed to amend the Complaint, requiring Defendant's counsel to appear for hearings on January 3, April 25 and May 30, 2025, on the related summary judgment and leave to amend

motions. Additional briefing was filed by the parties on May 16 and May 23, 2025, in anticipation of the May 30, 2025, hearing.

The Court found that the prior settlement agreement was dispositive of this action when it heard the summary judgment motion. Plaintiff and her counsel had every opportunity to terminate this action as far back as February, 2024, when they were informed of the existence of the settlement agreement. This opportunity continued through the September, 2024, filing of and the May, 2025, hearing on the summary judgment motion. The Court finds that Plaintiff created the necessity for much of the expenses associated with the summary judgment motion, and that they were necessary costs.

Plaintiff also challenges specific cost items. First, $94 is claimed under the category "Other" (Item 15) on the Memorandum of Costs filed in both cases. Plaintiff argues this identical cost in both actions must be the result of duplication. Item 14 of both Memoranda ("Fees for electronic filing or service") are for $306 and $275.25, respectively, and Plaintiff also challenges these items as unsubstantiated or excessive, but does not offer more beyond that conclusory assertion. Declaration of Joan C. Woodard, dated November 20, 2025, Exhibit 3.

On the face of it, the Defendant's verified Memorandum of Costs establishes the validity of "fees for electronic or filing service," costs that are expressly allowed by statute. Code of Civil Procedure § 1033.5(a)(1).

The $94 is documented as an appearance fee for a case management conference on October 29, 2024. Because the scheduled conference was for both cases, Defendant produced two invoices showing two separate payments to the Court with two confirmation numbers.

Attorney's Fees

On October 28, 2025, Defendant filed a Motion for Award of Attorney's Fees in both cases. Attorney fees are recoverable only when authorized by contract, statute or law. Code of Civil Procedure § 1033.5(a)(10).

Plaintiff argues that statutes and public policy do not favor awarding attorney's fees against a plaintiff in an employment case unless there is a showing of bad faith. Labor Code § 218.5(a) sets forth the statutory right of recovering attorneys' fees in defined labor cases:

> In any action brought for the nonpayment of wages, fringe benefits, or health and welfare or pension fund contributions, the court shall award reasonable attorney's fees and costs to the prevailing party if any party to the action requests attorney's fees and costs upon the initiation of the action. However, if the prevailing party in the court action is not an employee, attorney's fees and costs shall be awarded pursuant to this section only if the court finds that the employee brought the court action in bad faith.

Defendant responds that the recovery of attorneys' fees in this case is contractual, not statutory. Defendant bases its right to recovery upon the terms of and the necessity of enforcing the prior settlement agreement in light of the Plaintiff's attempt to bring new claims that were covered by that agreement. The right of recovery of attorneys' fees is specified in paragraph 12(a) of the settlement agreement:

> This Agreement shall be admissible in any proceeding to enforce the terms thereof, if necessary, and **the prevailing party in any such proceeding shall be entitled to recover costs, including reasonable attorneys' fees, incurred thereby**. By virtue of the foregoing language and pursuant to Evidence Code section 1123(b), this written Agreement is intended to be binding and enforceable.

Declaration of Joan C. Woodard in Support of Motion for Summary Judgment, dated December 6, 2024, Exhibit 3.

The Court finds that the basis for recovery is contractual, not statutory, and is found in the terms of the settlement agreement executed by Plaintiff and Defendant and quoted above.

Plaintiff further argues that the $26,606.25 [24CV0676]/$79,818.75 [24CV0105] amount, at $450 per hour, for the related Class and PAGA matters is an unreasonable amount of attorney's fees, especially considering that Defendant's Motion for Summary Judgement was unnecessary. Civil Code § 1717(a) specifies that in contract disputes the prevailing party is limited to recovering "reasonable" attorney fees:

> In any action on a contract, where the contract specifically provides that attorney's fees and costs, which are incurred to enforce that contract, shall be awarded either to one of the parties or to the prevailing party, then the party who is determined to be the party prevailing on the contract, whether he or she is the party specified in the contract or not, shall be entitled to reasonable attorney's fees in addition to other costs.

The Court has already opined as to the necessity of the summary judgment motion. There was a need to address two simultaneous and somewhat complex cases and the lively motion practice since the first case was filed not quite two years ago, including:

- Answer to Complaint
- Defendant's Motion for a Protective Order and Stay
- Opposition to Plaintiff's Motion for Leave to File a First Amended Complaint
- Opposition to Plaintiff's two motions to be relieved as counsel
- Defendant's Motion for Summary Judgment
- Post judgment activity and orders

The Court finds that an award of fees is appropriate. If fees are ordered, in the alternative Plaintiff requests that Defendant be ordered to provide evidence to support the reasonableness of the fees. While Defendant has provided a declaration of counsel attesting to the reasonableness of the fees, the Court finds it has insufficient information to determine from

this declaration alone whether the fees requested are reasonable. The Court finds that the billing rate is reasonable, but the Court needs additional information to determine whether the hours expended are reasonable. The Court orders Defendant to provide billing statements, or other evidence as appropriate, to justify the number of hours it claims were reasonably expended. This evidence is ordered to be filed with the Court and served on Plaintiff by December 19, 2025. Plaintiff is ordered to file and serve a response regarding the reasonableness of the hours expended by January 9, 2026. Defendant then may file and serve a reply by January 23, 2026. The matter is continued to January 30, 2026 at 8:30 a.m. in Department 9 regarding the amount of attorney's fees to order.

Liability of Counsel

The Court notes that Plaintiff's Counsel objected to any imposition of liability of costs and fees on Counsel. The Court clarifies that its order for fees and costs shall be against the party, not specifically against the attorney.

TENTATIVE RULING #2: PLAINTIFF'S MOTION TO STRIKE THE MEMORANDUM OF COSTS IS DENIED. THE COURT FINDS THAT AN AWARD OF ATTORNEY'S FEES IS APPROPRIATE AND THAT THE BILLING RATE CLAIMED IS REASONABLE. THE COURT ORDERS DEFENDANT TO PROVIDE BILLING STATEMENTS, OR OTHER EVIDENCE AS APPROPRIATE, TO JUSTIFY THE NUMBER OF HOURS IT CLAIMS WERE REASONABLY EXPENDED. THIS EVIDENCE IS ORDERED TO BE FILED WITH THE COURT AND SERVED ON PLAINTIFF BY DECEMBER 19, 2025. PLAINTIFF IS ORDERED TO FILE AND SERVE A RESPONSE REGARDING THE REASONABLENESS OF THE HOURS EXPENDED BY JANUARY 9, 2026. DEFENDANT THEN MAY FILE AND SERVE A REPLY BY JANUARY 23, 2026. THE MATTER IS CONTINUED TO JANUARY 30, 2026 AT 8:30 A.M. IN DEPARTMENT 9 REGARDING THE AMOUNT OF ATTORNEY'S FEES TO ORDER.

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 621-6551 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07; SEE ALSO LEWIS V. SUPERIOR COURT, 19 CAL.4TH 1232, 1247 (1999).

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CAUSE HEARING DATE AND TIME BY 5:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. PARTIES MAY PERSONALLY APPEAR AT THE HEARING.

IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM, PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.

3.	**24CV0676**	**COCHRAN v. MARSHALL MEDICAL CENTER**
Motion to Strike Memorandum of Costs / Attorney's Fees		

See related case, Item #2 above.

TENTATIVE RULING #3: PLAINTIFF'S MOTION TO STRIKE THE MEMORANDUM OF COSTS IS DENIED. THE COURT FINDS THAT AN AWARD OF ATTORNEY'S FEES IS APPROPRIATE AND THAT THE BILLING RATE CLAIMED IS REASONABLE. THE COURT ORDERS DEFENDANT TO PROVIDE BILLING STATEMENTS, OR OTHER EVIDENCE AS APPROPRIATE, TO JUSTIFY THE NUMBER OF HOURS IT CLAIMS WERE REASONABLY EXPENDED. THIS EVIDENCE IS ORDERED TO BE FILED WITH THE COURT AND SERVED ON PLAINTIFF BY DECEMBER 19, 2025. PLAINTIFF IS ORDERED TO FILE AND SERVE A RESPONSE REGARDING THE REASONABLENESS OF THE HOURS EXPENDED BY JANUARY 9, 2026. DEFENDANT THEN MAY FILE AND SERVE A REPLY BY JANUARY 23, 2026. THE MATTER IS CONTINUED TO JANUARY 30, 2026 AT 8:30 A.M. IN DEPARTMENT 9 REGARDING THE AMOUNT OF ATTORNEY'S FEES TO ORDER.

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4.	25CV2109	NELSON v. RESCUE UNION SCHOOL DISTRICT
Petition for Relief from Tort Claims Act Requirements		

Petitioner seeks relief from the six-month deadline imposed by Government Code § 954.4 for filing an action against the Rescue Union School District ("District"). That section prohibits the filing of an action against a public entity without first filing a written claim:

> [N]o suit for money or damages may be brought against a public entity on a cause of action for which a claim is required to be presented . . . until a written claim therefor has been presented to the public entity and has been acted upon by the board, or has been deemed to have been rejected by the board, . . .

The six-month deadline for filing such a claim is set forth in Government Code § 911.2(a):

> A claim relating to a cause of action for death or for injury to person or to personal property or growing crops shall be presented . . . not later than six months after the accrual of the cause of action.

According to the Petitioners' Memorandum of Points and Authorities, on January 11, 2024, Petitioners' minor son was injured on the grounds of Lake Forest Elementary School during school hours. It was not until September, 2024 that Petitioners learned of the six-month filing deadline to assert a claim against the District.

Nearly a year after the incident, on January 7, 2025, Petitioners filed a late claim pursuant to Government Code § 911.4, which was deemed denied as of February 21, 2025, when Defendant did not respond.

Just under six months later, on August 14, 2025, the *pro per* Petitioners filed an *ex parte* application for the Court to set aside the claims deadline pursuant to Government Code § 946.6, which provides, in pertinent part (emphasis added):

> (a) If an application for leave to present a claim is denied or deemed to be denied pursuant to Section 911.6, **a petition may be made to the court for an order relieving the petitioner from Section 945.4**. The proper court for filing the petition is a superior court that would be a proper court for the trial of an action on the cause of action to which the claim relates. . . .
>
> (b) The petition shall show each of the following:
>
> (1) That application was made to the board under Section 911.4 and was denied or deemed denied.
>
> (2) The reason for failure to present the claim within the time limit specified in Section 911.2.
>
> (3) The information required by Section 910.

The petition shall be filed within six months after the application to the board is denied or deemed to be denied pursuant to Section 911.6.

(c) **The court shall relieve the petitioner from the requirements of Section 945.4 if the court finds that the application . . . was made within a reasonable time not to exceed [one year after the accrual of the cause of action]** and was denied or deemed denied pursuant to Section 911.6 **and that one or more of the following is applicable**:

(1) The failure to present the claim was through mistake, inadvertence, surprise, or excusable neglect unless the public entity establishes that it would be prejudiced in the defense of the claim if the court relieves the petitioner from the requirements of Section 945.4.

(2) **The person who sustained the alleged injury, damage, or loss was a minor during all of the time specified in Section 911.2 for the presentation of the claim**.

* * *

The Court denied the *ex parte* application but invited Petitioners to put the matter on the regular law and motion calendar so that the District could respond. Petitioners retained counsel in September, 2025. On October 29, 2025, Petitioners filed this Petition.

Respondent takes issue with the lack of foundation for any of the facts recited in the Petition, which is supported by a Declaration of Petitioners' counsel. While the recitation of facts may be unsubstantiated due to counsel's lack of personal knowledge as to some details--such as statements of Petitioners' understanding of claim requirements--the relevant facts are largely objectively determinable public document filing dates. Respondent's own statement of facts in its Opposition relies on the facts as stated in Petitioners' prior *ex parte* application. There does not appear to be any genuine dispute as to any material fact for the purpose of this Petition.

Accepting the facts as stated in the Petition and the Opposition, given that the injury that is the basis for this claim was sustained by a person who was a minor during the claim filing period, the Court has no discretion to deny the Petition under Government Code § 946.6(c)(2).

TENTATIVE RULING #4: THE PETITION IS GRANTED. PURSUANT TO GOVERNMENT CODE § 946.6(F), PETITIONERS SHALL FILE SUIT ON THE CAUSE(S) OF ACTION TO WHICH THE CLAIM RELATES WITHIN 30 DAYS OF THIS COURT'S ORDER.

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 621-6551 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07; SEE ALSO LEWIS V. SUPERIOR COURT, 19 CAL.4TH 1232, 1247 (1999).

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5.	**25CV1478**	**EL DORADO COUNTY ANIMAL SERVICES v. SLATER**
Modify Dangerous Dog Order (Ali/Rocky)		

El Dorado County Animal Services ("EDCAS") requests the Court to set a hearing on the disposition of three dogs, Rocky, King and Lulu, that were the subject of a June 23, 2025, Order ("Order") declaring each of the three dogs to be a potentially dangerous dog under California Food and Agriculture Code 31602(a). The Order required Respondents, Derek Vincent Slater, Lynn Jeffery Slater, Annie Slater, and Zenia Novicio Canasa, to reduce the number of dogs on their property from eight to four. EDCAS reports that Respondents are not in compliance with the Order, and that Respondents have refused to allow EDCAS to inspect their property to determine compliance with the Order.

TENTATIVE RULING #5: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON FRIDAY, DECEMBER 5, 2025, IN DEPARTMENT NINE FOR THE PURPOSE OF SETTING A HEARING DATE.

IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM, PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.

6.	**25CV1472**	**EL DORADO COUNTY ANIMAL SERVICES v. SLATER**
Modify Dangerous Dog Order (King)		

See Related Case: Item 5.

TENTATIVE RULING #6: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON FRIDAY, DECEMBER 5, 2025, IN DEPARTMENT NINE FOR THE PURPOSE OF SETTING A HEARING DATE.

IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM, PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.

7.	**25CV1472**	**EL DORADO COUNTY ANIMAL SERVICES v. SLATER**
Modify Dangerous Dog Order (Lulu/Luna)		

See Related Case: Item 5.

TENTATIVE RULING #7: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON FRIDAY, DECEMBER 5, 2025, IN DEPARTMENT NINE FOR THE PURPOSE OF SETTING A HEARING DATE.

IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM, PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.

8.	**24CV0753**	**BECKER V. MUZYKA**
Compromise Claim		

This is a Petition to compromise a claim of a person with disability. Petitioner is the claimant's parent and guardian ad litem. The Petition states the claimant sustained head, neck and back injuries resulting from an auto accident in 2022. A copy of the accident investigation report was filed with the Petition, as required by Local Rule 7.10.12A(4). Petitioner requests the court authorize a compromise of the claim in the gross amount of $70,000.

The Petition states that $16,977.01 in medical expenses would be deducted from the settlement. Copies of invoices for the claimed medical expenses are attached to the Petition as required by Local Rules of the El Dorado County Superior Court, Rule 7.10.12A.(6).

The Petition states that the claimant has fully recovered and there are no permanent injuries. A doctor's report concerning the claimant's condition and prognosis of recovery is attached, as required by Local Rules of the El Dorado County Superior Court, Rule 7.10.12A.(3).

The claimant's attorney requests attorneys' fees in the amount of $17,150.31, which represents 25% of the gross settlement amount. The court uses a reasonable fee standard when approving and allowing the amount of attorney's fees payable from money or property paid or to be paid for the benefit of a minor or a person with a disability. (Local Rules of the El Dorado County Superior Court, Rule 7.10.12A.(8); California Rules of Court, Rule 7.955(a)(1).) The Petition includes a Declaration by the attorney as required by California Rules of Court, Rule 7.955(c).

The claimant's attorney also requests reimbursement for costs in the amount of $1,398.75. <u>There are no copies of bills substantiating the claimed costs attached to the Petition as required by Local Rules of the El Dorado County Superior Court, Rule 7.10.12A.(6)</u>.

With respect to the $34,473.93 due to the minor, the Petition requests that they be deposited into an insured account with JP Morgan Chase, subject to withdrawal with court authorization. See attachment 18(b)(2), which includes the name and address of the depository, as required by Local Rules of the El Dorado County Superior Court**,** Rule 7.10.12A(7).

The claimant's presence at the hearing will be required in order for the court to approve the Petition. Local Rules of the El Dorado County Superior Court, Rule 7.10.12.D.

TENTATIVE RULING #8: THE MATTER IS CONTINUED TO 8:30 A.M. ON DECEMBER 19, 2025, IN DEPARTMENT NINE TO ALLOW CLAIMANT AN OPPORTUNITY TO FILE COPIES OF RECEIPTS FOR PAYMENT OF EXPENSES AS REQUIRED BY LOCAL RULES.

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE

COURT AT (530) 621-6551 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07; SEE ALSO LEWIS V. SUPERIOR COURT, 19 CAL.4TH 1232, 1247 (1999).

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IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM, PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.

9.	**24CV2521**	**HAUCK v. INSULATION SPECIALIST et al**
Good Faith Settlement		

The Plaintiff filed a Notice of Settlement of Entire Case on November 7, 2025, indicating a request for dismissal would be filed no later than December 22, 2025.

TENTATIVE RULING #9: THE MATTER IS DIMISSED FROM CALENDAR.

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 621-6551 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07; SEE ALSO LEWIS V. SUPERIOR COURT, 19 CAL.4TH 1232, 1247 (1999).

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10.	**25CV0847**	**FOSTER v. KAPLAN**
Compel Further Responses to Discovery		

This personal injury case involves a 2023 vehicle collision.

Plaintiff propounded Form Interrogatories, Set One, Special Interrogatories, Set One and Request for Production of Documents, Set One (collectively, "Plaintiff's Discovery") to Defendant on May 23, 2025. Cherny Declarations, para. 3.[1] Defendant served un-verified responses on June 20, 2025. Cherny Declarations, para. 4, Exhibit B. Defendant's response to each item of Plaintiff's Discovery was as follows: "Defendant objects on the grounds of the attorney-client and work product privilege. Investigation and discovery continue, and Defendant reserves the right to supplement or amend these responses."

On June 26, 2025, Plaintiff's counsel sent a meet and confer letter to counsel for Defendant, Cherny Declarations, para. 5. Exhibit C. Defendant's counsel responded by email on July 1, 2025, requesting an extension until July 21, 2025, to provide substantive responses in exchange for a reciprocal extension of time to file a motion to compel. Cherny Declarations, para. 6, Exhibit D. Plaintiff's counsel agreed to the proposed timeline by email on July 1, 2025. Cherny Declarations, para. 7, Exhibit E. Defendant did not provide amended, substantive, code-compliant responses to Plaintiff's Discovery on July 21, 2025, as the parties agreed. Cherny Declarations, para. 8.

Plaintiff requests the Court to compel Defendant to provide further responses to the Special Interrogatories, Form Interrogatories and Requests for Production.

Plaintiff requests monetary sanctions for misuse of discovery pursuant to Code of Civil Procedure §§ 2023.030 (sanctions for misuse of discovery authorized), 2023.010 (misuse of discovery defined), and 2020.300 (mandatory sanctions for unsuccessful motion or opposition to compel further responses to interrogatories). The amount of sanctions requested is a total of $3,180 [failure to respond to special interrogatories ($1060), form interrogatories ($1060) and requests for production ($1060)].

Plaintiff's motion is unopposed.

TENTATIVE RULING #10: PLAINTIFF'S MOTIONS TO COMPEL FURTHER RESPONSES TO SPECIAL INTERROGATORIES, FORM INTERROGAORIES AND REQUESTS FOR PRODUCTION OF

[1] Plaintiff filed a separate Declaration by A. Cherny to support the Motions to Compel as to each of the three forms of discovery, but two of the three separate Declarations, those that relate to form and special interrogatories, are identical. The Declaration of A. Cherny relating to the Requests for Production varies slightly and has differing paragraph and exhibit numbers but recites the same salient dates and describes Defendant's identical responses. The Court will refer to these collectively as the "Cherny Declarations". References to paragraph and Exhibit numbers are from the Declarations supporting Motions to Compel Further Responses to Form ad Special Interrogatories.

DOCUMENTS ARE GRANTED. DEFENDANT SHALL PROVIDE CODE-COMPLIANT DISCOVERY RESPONSES BY DECEMBER 29, 2025. SANCTIONS ARE AWARDED TO PLAINTIFF IN THE AMOUNT OF $3,180.

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 621-6551 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07; SEE ALSO LEWIS V. SUPERIOR COURT, 19 CAL.4TH 1232, 1247 (1999).

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11.	24CV0887	ANDRIDGE v. NUNES et al
Motion to Compel Responses to Interrogatories		

Defendant/Cross-Complainant ("Nunes") moves to compel Plaintiff/Cross-Defendant's ("Andridge") responses to Special Interrogatories, Set One, served on July 25, 2025. Declaration of Michael Nunes, dated October 9, 2025. Andridge has not yet responded. The Motion is unopposed.

> The party to whom interrogatories have been propounded shall respond in writing under oath separately to each interrogatory by any of the following:
>
> (1) An answer containing the information sought to be discovered.
> (2) An exercise of the party's option to produce writings.
> (3) An objection to the particular interrogatory.

Code of Civil Procedure § 2030.210(a).

Plaintiff has not met the requirements of the statute.

Sanctions

Nunes requests sanctions in the amount of $1,000.

There are statutory sanctions available for misuse of discovery pursuant to Code of Civil Procedure § 2023.010 ("Misuses of the discovery processes include, but are not limited to ... (d) failing to respond or submit to an authorized method of discovery ... ") and Code of Civil Procedure § 2023.030. ("To the extent authorized by the Chapter governing any particular discovery method or any other provision of this title, the Court, after notice to any affected party, person or attorney, and after opportunity for hearing, may impose ... sanctions against anyone engaging in conduct that is a misuse of the discovery process ... ").

TENTATIVE RULING #11: DEFENDANT'S MOTION TO COMPEL RESPONSES TO SPECIAL INTERROGATORIES, SET ONE, IS GRANTED. PLAINTIFF SHALL PROVIDE CODE COMPLIANT RESPONSES TO DEFENDANT WITHIN TEN CALENDAR DAYS. SANCTIONS ARE AWARDED IN THE AMOUNT OF $200 AND SHALL BE PAID BY PLAINTIFF TO DEFENDANT NUNES WITHIN TEN CALENDAR DAYS.

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 621-6551 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07; SEE ALSO LEWIS V. SUPERIOR COURT, 19 CAL.4TH 1232, 1247 (1999).

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COUNTY LOCAL RULE 8.05.07. PROOF OF SERVICE OF SAID NOTICE MUST BE FILED PRIOR TO OR AT THE HEARING.

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12.	25CV1145	LANE v. EL DORADO IRRIGATION DISTRICT et al
Demurrer		

On June 6, 2025, Plaintiff filed her First Amended Complaint alleging, among other things, harassment and a hostile work environment. Defendants El Dorado Irrigation District, Jim Abercrombie, Jose Perez, Dan Corcoran, and Ryan Deakyne (collectively "Defendants") filed their demurrer to First Amended Complaint on August 11, 2025. The demurrer seeks to attack the sufficiency of the First Cause of Action for Hostile Workplace Environment Harassment Based on FEHA Sex and Age – Cal. Govt. Code § 12940 et. seq. on the grounds that the Complaint fails to state facts sufficient to constitute a cause of action and the alleged conduct falls within the managerial duties of Defendants. Plaintiff filed her opposition to the demurrer on October 31, 2025, and Defendants filed their reply on November 14th.

A demurrer raises only issues of law, not fact, regarding the form and content of the pleadings of the opposing party. Cal. Civ. Pro. §§ 422.10 and 589. It is not the function of the demurrer to challenge the truthfulness of the complaint, instead, for the purposes of testing the sufficiency of the cause of action, the demurrer admits the truth of all material facts in the pleading but not contentions, deductions or conclusions of fact or law. Aubry v. Tri-City Hosp. Dist, 2 Cal. 4th 962, 966-967 (1992); Serrano v. Priest¸5 Cal. 3d 584 (1971); Adelman v. Associated Int'l Ins. Co., 90 Cal. App. 4th 352, 359 (2001). Thus, failure to plead the ultimate facts supporting a cause of action subjects the complaint to a demurrer. Cal. Civ. Pro. § 430.10(e); Berger v. Cal. Ins. Guar. Ass'n, 128 Cal. App. 4th 989, 1006 (2005).

Here, the legal theory at issue is that of a hostile work environment. "To establish a prima facie case of a hostile work environment, [Plaintiff] must show that (1) she is a member of a protected class; (2) she was subjected to unwelcome harassment; (3) the harassment was based on her protected status; (4) the harassment unreasonably interfered with her work performance by creating an intimidating, hostile, or offensive work environment; and (5) defendants are liable for the harassment." Ortiz v. Dameron Hospital Assn., 37 Cal. App. 5th 568, 581 (2019) *citing* Thompson v. City of Monrovia, 186 Cal. App. 4th 860, 876 (2010).

Because FEHA allocates separate provisions to harassment and discrimination, much case law has centered around the distinction between the two. "…[D]iscrimination refers to bias in the exercise of official actions on behalf of the employer, and harassment refers to bias that is expressed or communicated *through interpersonal relations in the workplace.*" Roby v. McKesson Corp., 47 Cal. 4th 686, 706, 707 (2009). Because of this distinction, the court in *Janken v. GM Hughes Electronics*, 46 Cal. App. 4th 55 (1996), determined the "…Legislature intended that commonly necessary personnel management actions such as hiring and firing…performance evaluations…and the like, do not come within the meaning of harassment. These are actions of a type necessary to carry out the duties of business and personnel management. These actions may retrospectively be found discriminatory if based on improper motives, but in that event the remedies provided by the FEHA are those for discrimination, not harassment." Janken v. GM Hughes Electronics, 46 Cal. App. 4th 55, 64-65 (1996).

"Courts have employed the concept of delegable authority as a test to distinguish conduct actionable as discrimination from conduct actionable as harassment. [The *Janken* court adopted] this approach to find that the exercise of personnel management authority properly delegated by an employer to a supervisory employee might result in discrimination but not in harassment." *Id.* at 64. Though it is clear that "discrimination and harassment are separate wrongs, they are sometimes closely interrelated…" and for that reason, nothing precludes managerial actions from being used as evidence in support of a claim for harassment "so long as that evidence is relevant to prove the communication of a hostile message." Roby v. McKesson Corp., 47 Cal. 4th 686, 707-708 (2009).

Particularly on point here is the matter of *Roby v. McKesson Cor.,* 47 Cal. 4th 686 (2009). In *Roby* the court overturned the appellate court's ruling that actions taken in furtherance of managerial duties were solely to be considered in analyzing Roby's discrimination claim and could not be used as support for a claim of harassment. Instead, the *Roby* court found that even though "…some actions that [Defendant] took with respect to Roby are best characterized as official employment actions rather than hostile social interactions in the workplace…they may have contributed to the hostile message that [Defendant] was expressing to Roby in other, more explicit ways." *Id.* at 709. Ultimately, while managerial actions that are within the scope of employment cannot, by themselves, establish a claim for harassment, when they are in furtherance of a broader message and support a finding of discriminatory animus behind other interpersonal interactions, then such managerial duties can be considered in establishing a claim for harassment. *See generally* Roby, *Supra.*

Roby is distinct from the matter at hand in that *Roby* involved an intermingling of managerial actions (imposing discipline for absences) and interpersonal interactions (demeaning comments made about Roby's body odor and arm sores, refusal to respond to greetings, demeaning facial expressions, and disparate treatment when handing out small gifts). Here, with the exception of one comment made by Corcoran, Plaintiff fails to allege any such interpersonal hostile actions that were separate and apart from the managerial duties of Defendants.

Setting aside Plaintiff's flagrant language and conclusory statements, there is little alleged against Defendants other than their managerial activities. In January of 2024, Defendant Perez, the director of HR, received a complaint regarding Plaintiff. Plaintiff sufficiently establishes that she doesn't agree with how Perez conducted his investigation into the complaint, but she does not allege any harassing interpersonal activity. Perez did not interview her witnesses, he asked her questions about her timekeeping activities though he already had looked at her time records, he reviewed security footage of her during work hours, looked into whether she was holding other positions outside of work. Nothing in these allegations lends itself to a hostile or harassing interpersonal encounter between the two that would fall outside of Perez's managerial duties.

After the initial interview with Plaintiff, Perez recommended her termination to Plaintiff's supervisor in a conversation that did not include Plaintiff. Plaintiff alleges that two other meetings were held, without her involvement or knowledge, wherein again Perez recommended Plaintiff's termination. HR's ability to recommend termination of an employee is an essential job

function of the HR position and it is unclear how such meetings, without Plaintiff's involvement and which only involved Plaintiff's direct supervisors, can establish a basis for harassment.

Plaintiff alleges harassment toward Defendant Deakyne on the basis that Deakyne reported a comment made by Plaintiff to HR, but he did not report the comment made by Corcoran. Again, it is unclear how Plaintiff's disagreement with Deakyne's decision to report one comment and not the other constituted harassment such that Deakyne's decision unreasonably interfered with Plaintiff's work performance.

After Deakyne's report to HR, a final meeting was held between Perez and Plaintiff. Plaintiff alleges that Perez only investigated her comment and not the comment made by Corcoran. He recorded portions of the interview without Plaintiff's consent and told Plaintiff that she was obligated to answer his questions. He sent a follow up email which, according to Plaintiff, misrepresented the interview and then she was terminated before she was able to send an email with her interpretation of the interview.

Plaintiff's allegations towards Abercrombie seem to center only around the fact that he ultimately agreed with Perez and made the decision to terminate Plaintiff. The General Manager's decision to accept the recommendation of HR and terminate an employee is strictly a managerial decision that falls well within the scope of Abercrombie's position and that, without more, is insufficient to establish harassment.

Looking strictly at the interpersonal interactions of all involved, Perez held only two meetings with Plaintiff directly and there are no factual allegations that he made derogatory or harassing comments, physically restrained her in any way, or acted in any manner outside the scope of his managerial duty during those meetings. Investigations into complaints such as holding interviews, choosing who to interview (and who not to interview), making creditability determinations, reviewing timekeeping records and surveillance, are all actions properly delegated by an employer to a supervisory employee and therefore fall within the delegable authority test. As *Roby* shows us, such actions may evidence harassment but only when done in a manner that, when taken in conjunction with other interpersonal actions, conveys a broader hostile message.

Plaintiff has failed to provide factual instances in which Perez's actions fell outside his managerial duties of investigating and recommending termination of an employee or how these managerial duties contributed to a broader message of hostile actions towards Plaintiff herself. She failed to plead facts to show Abercrombie's actions of agreeing with HR's recommendation fell outside the scope of his employment duties. Without making such a showing, Plaintiff is left with only the claim against Corcoran regarding his allegedly harassing remark, and Deakyne's report to HR. Thus, the complaint fails to satisfy the second and fourth prongs of a prima facie case for harassment "…(2) she was subjected to unwelcome harassment…[and]…(4) the harassment unreasonably interfered with her work performance by creating an intimidating, hostile, or offensive work environment." Ortiz v. Dameron Hospital Assn., 37 Cal. App. 5th 568, 581 (2019). For this reason, the demurrer to the First Cause of Action is sustained.

<u>Leave to Amend</u>

When a demurrer is sustained but "…the defect raised by …[the] demurrer is reasonably capable of cure, 'leave to amend is routinely and liberally granted to give the plaintiff a chance to cure the defect in question.'" Price v. Dames & Moore, 92 Cal.App.4th 355, 360 (2001); Grieves v. Superior Court, 157 Cal.App.3d 159, 168 (1984). Thus, it is generally an abuse of discretion to deny leave to amend, because the drastic step of denial of the opportunity to correct the curable defect effectively terminates the pleader's action. Vaccaro v. Kaiman*, supra,* at p. 768." CLD Const., Inc. v. City of San Ramon, 120 Cal.App.4th 1141, 1146-1147 (2004).

The court does find that the defect in Plaintiff's pleading may be cured if she has additional facts to support her allegation of harassment. As such, Plaintiff is granted ten days leave to amend.

TENTATIVE RULING #12: THE DEMURRER TO THE FIRST CAUSE OF ACTION FOR HOSTILE WORKPLACE ENVIRONMENT HARASSMENT BASED ON FEHA SEX AND AGE – CAL. GOVT. CODE § 12940 ET. SEQ. IS SUSTAINED. PLAINTIFF IS GRANTED TEN DAYS LEAVE TO AMEND FROM THE DATE OF SERVICE OF THE SIGNED ORDER.

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 621-6551 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07; SEE ALSO LEWIS V. SUPERIOR COURT, 19 CAL.4TH 1232, 1247 (1999).

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13.	25CV0428	WELLS FARGO BANK, NA v. JONES
Summary Judgment		

Wells Fargo Bank, N.A. ("Plaintiff"), filed its Complaint against Defendant for (1) breach of written contract, and (2) breach of contract (implied in fact) with respect to a credit card account. The *pro per* Defendant then filed a General Denial.

Defendant's responses the Request for Admissions ("RFA"), which are attached to the Declaration of David Bartley, Esq., dated July 21, 2025, (Bartley Declaration), Exhibit 2, established that Defendant was issued the card (RFA No. 1), agreed to pay, at a minimum, the principal (RFA No. 2), that no one else used the card (RFA No. 3), that the last payment was in late 2023, when Defendant sought professional assistance with debt relief (RFA No. 7).

Defendant denies the amount of the debt (RFA No. 6), and disputes that Wells Fargo provided paper statements or internet access to the account such that failure to dispute the debt might be attributed to lack of knowledge (RFA Nos. 4-5, 8).

Defendant's verified responses to the RFA explain that in late 2023 Defendant sought professional debt relief assistance and those services included renegotiating debt. Plaintiff was informed that the debt was being negotiated, and around that time the Plaintiff's website removed the refence to Defendant's debt, reinforcing the impression that it was being actively reviewed. However, Plaintiff continued to charge interest and late fees and finally filed this action. Plaintiff's documentation attached to the responses indicates that $13,604.26 is due on the account.

Summary Judgment

> [S]ummary judgment or summary adjudication is to be granted when there is no triable issue of material fact and the moving party is entitled to judgment as a matter of law." (*Mills v. U.S. Bank* (2008) 166 Cal.App.4th 871, 894–895, 83 Cal.Rptr.3d 146.) The "party moving for summary judgment bears an initial burden of production to make a prima facie showing of the nonexistence of any triable issue of material fact; if he carries his burden of production, he causes a shift, and the opposing party is then subjected to a burden of production of his own to make a prima facie showing of the existence of a triable issue of material fact." (*Aguilar v. Atlantic Richfield Co.* (2001) 25 Cal.4th 826, 861–862, 107 Cal.Rptr.2d 841, 24 P.3d 493.)

Alvarez v. Seaside Transportation Servs. LLC, 13 Cal. App. 5th 635, 641–42, 221 Cal. Rptr. 3d 119, 124–25 (2017)

A cause of action for breach of contract requires proof of the following elements: (1) existence of the contract; (2) plaintiff's performance or excuse for nonperformance; (3) defendant's breach; and (4) damages to plaintiff as a result of the breach. CDF Firefighters v. Maldonado, 158 Cal. App. 4th 1226, 1239 (2008).

The statements of the parties agree on the existence of the contract, the Plaintiff's performance, the Defendant's breach and the Plaintiff's resulting damage. The Plaintiff has met the burden of proving the elements of the cause of action. The Motion is unopposed.

TENTATIVE RULING #13: PLAINTIFFS MOTION FOR SUMMARY JUDGMENT IS GRANTED.

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 621-6551 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07; SEE ALSO LEWIS V. SUPERIOR COURT, 19 CAL.4TH 1232, 1247 (1999).

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14.	24CV2037	WELLS FARGO BANK, NA v. GODINA CONSTRUCTION et al
Summary Adjudication		

At issue are two loan accounts, a business credit card and a business line of credit. Plaintiff alleges that the individual Defendant, Paul Godina, executed the loan instruments on behalf of and as a guarantor of the corporate Defendant, Godina Construction. The Fourth and Eighth Causes of Action are directed at the individual Defendant for Breach of Guaranty. The other six causes of action are directed against the corporate Defendant.

Plaintiff seeks summary adjudication of the following causes of action:

- the First Cause of Action for Breach of Contract as to Godina Construction;
- the Fourth Cause of Action for Breach of Guaranty as to defendant Paul Godina;
- the Fifth Cause of Action for Breach of Contract as to Godina Construction;
- the Eighth Cause of Action for Breach of Guaranty as to Paul Godina.

Summary Adjudication

Code of Civil Procedure § 437c sets forth the standards governing summary adjudication, and the sections relevant to this matter are reproduced below:

* * *

(f)(1) A party may move for summary adjudication as to one or more causes of action within an action, one or more affirmative defenses, one or more claims for damages, or one or more issues of duty, if the party contends that the cause of action has no merit, that there is no affirmative defense to the cause of action, that there is no merit to an affirmative defense as to any cause of action, that there is no merit to a claim for damages, as specified in Section 3294 of the Civil Code, or that one or more defendants either owed or did not owe a duty to the plaintiff or plaintiffs. A motion for summary adjudication shall be granted only if it completely disposes of a cause of action, an affirmative defense, a claim for damages, or an issue of duty.

* * *

(p) For purposes of motions for summary judgment and summary adjudication:

(1) A plaintiff or cross-complainant has met that party's burden of showing that there is no defense to a cause of action if that party has proved each element of the cause of action entitling the party to judgment on the cause of action. Once the plaintiff or cross-complainant has met that burden, the burden shifts to the defendant or cross-defendant to show that a triable issue of one or more material facts exists as to the cause of action or a defense thereto. The defendant or cross-defendant shall not rely upon the allegations or denials of its pleadings to show that a triable issue of material fact exists

but, instead, shall set forth the specific facts showing that a triable issue of material fact exists as to the cause of action or a defense thereto.

* * *

A cause of action for breach of contract requires proof of the following elements: (1) existence of the contract; (2) plaintiff's performance or excuse for nonperformance; (3) defendant's breach; and (4) damages to plaintiff as a result of the breach. CDF Firefighters v. Maldonado, 158 Cal. App. 4th 1226, 1239 (2008).

A lender is entitled to judgment on a breach of guaranty claim based upon undisputed evidence that (1) there is a valid guaranty, (2) the borrower has defaulted, and (3) the guarantor failed to perform under the guaranty. Gray1 CPB, LLC v. Kolokotronis, 202 Cal. App. 4th 480, 486 (2011).

Defendants have opposed Plaintiff's Motion for Summary Adjudication by objecting to the evidence that supports the Motion. The Declaration of Jennifer Hobbs, dated August 3, 2025, ("Hobbs Declaration") was executed by the Vice President of Wells Fargo Bank, and purported to establish the foundational facts of the case based on the files and records maintained in the ordinary course of Wells Fargo's business. Defendants object that the Declarant was not present when the alleged debt instruments were signed, has no personal knowledge of how the pertinent documents were prepared, and had no personal knowledge of Defendants' actions, intentions or motivations. In particular, Defendants argue that Plaintiffs cannot authenticate Defendants' signature on the debt instruments.[1] Thus, Defendants object to each item in the Plaintiff's Statement of Undisputed Material Facts as without foundation.

On August 6, 2025, the Court entered an Order granting Plaintiff's Motion to Deem Matters Admitted in the Request for Admissions that were served on Defendants on November 25, 2024, because Defendants had not responded to Plaintiff's discovery request by March, 2025, despite the grant of several extensions of time.

The substance of the Request for Admissions ("RFA") that was deemed admitted on August 6, 2025, covers the execution of two debt instruments by the individual Defendant on behalf of and as the guarantor of the corporate Defendant, and the default of payment on each of those loans. Below is set forth the full set of Requests for Admissions that has been deemed admitted by the Court:

[1] "An electronic record or electronic signature is attributable to a person if it was the act of the person. The act of the person may be shown in any manner, including a showing of the efficacy of any security procedure applied to determine the person to which the electronic record or electronic signature was attributable." (Cal. Civ. Code § 1633.9)

"CREDIT CARD ACCOUNT" refers to the Business Credit Card described in the Fifth Cause of Action in the Complaint.

"LINE OF CREDIT" refers to the business line of credit described in the First Cause of Action in the Complaint

YOU" or "YOUR" refers to defendant Paul Godina, an individual, aka P Godina, aka Paul A Godina, aka Paul Anthony Godina, aka Paul A Godinez.[1]

- RFA NO. 1: Exhibit "1" attached hereto is a true and correct copy of that certain Small Business Lending Application Agreement and Personal Guarantee for the LINE OF CREDIT.
- RFA NO. 2: Exhibit "1" was submitted by YOU on behalf of GODINA CONSTRUCTION ("GODINA") to WELLS FARGO, on or about December 15, 2021, for the LINE OF CREDIT.
- RFA NO. 3: Paul Godina signed the original of Exhibit "1."
- RFA NO. 4: By completing and signing the Exhibit "1," YOU accepted WELLS FARGO's offer to consider GODINA for a LINE OF CREDIT.
- RFA NO. 5: By completing and signing the Exhibit "1," YOU offered to be bound by the terms and conditions of the offer including the personal guaranty.
- RFA NO. 6: WELLS FARGO accepted the application represented by Exhibit "1" and granted the LINE OF CREDIT to GODINA.
- RFA NO. 7: Exhibit "2" attached hereto is a true and correct copy of that certain BusinessLine Customer Agreement.
- RFA NO. 8: The LINE OF CREDIT was governed by the Business Direct Application Agreement and Personal Guarantee, Exhibit "1" and BusinessLine Customer Agreement, Exhibit "2."
- RFA NO. 9: Exhibit "3" attached hereto is a true and correct copy of that certain Business Card Account Application Agreement and Personal Guaranty for the BUSINESS CREDIT CARD.
- RFA NO. 10: Exhibit "3" was submitted by YOU on behalf of GODINA to WELLS FARGO, on or about June 21, 2018, for the BUSINESS CREDIT CARD.
- RFA NO. 11: Paul Godina signed the original of Exhibit "3."
- RFA NO. 12: By completing and signing the Exhibit "3," YOU accepted WELLS FARGO's offer to consider GODINA for a Business CREDIT CARD.
- RFA NO. 13: By completing and signing the Exhibit "3," YOU offered to be bound by the terms and conditions of the offer including the personal guaranty.
- RFA NO. 14: WELLS FARGO accepted the application represented by Exhibit "3" and granted the BUSINESS CREDIT CARD to GODINA.
- RFA NO. 15: Exhibit "4" attached hereto is a true and correct copy of that certain Business Card Customer Agreement.

[1] The definition does not include the corporate Defendant. However, RFA Nos. 2 and 10 state that each debt instrument "was submitted by YOU on behalf of" the corporate Defendant. RFA Nos. 3 and 11 state that the individual Defendant signed the original debt instrument, and RFA Nos. 5 and 13 state: "By completing and signing [the instrument] YOU offered to be bound by the terms and conditions of the offer including the personal guaranty."

- RFA NO. 16: The BUSINESS CREDIT CARD was governed by the Card Acceptance Certificate for Secured and Unsecured Credit Agreement and Personal Guaranty, Exhibit "3" and Business Card Customer Agreement, Exhibit "4."
- RFA NO. 17: Wells Fargo loaned money pursuant to the BUSINESS LINE OF CREDIT.
- RFA NO. 18: YOU owe Wells Fargo for all amounts owing under the BUSINESS LINE OF CREDIT.
- RFA NO. 19: YOU failed to make the monthly payment amounts due under the BUSINESS LINE OF CREDIT.
- RFA NO. 20: The principal amount owing under the LINE OF CREDIT is $27,425.22.
- RFA NO. 21: The last payment on the LINE OF CREDIT was on April 22, 2024.
- RFA NO. 22: YOU have made no payments on the LINE OF CREDIT since the COMPLAINT was filed.
- RFA NO. 23: A demand letter was sent to you on July 26, 2024.
- RFA NO. 24: Wells Fargo loaned money pursuant to the BUSINESS CREDIT CARD.
- RFA NO. 25: YOU owe Wells Fargo for all amounts owing under the BUSINESS CREDIT CARD.
- RFA NO. 26: YOU failed to make the monthly payment amounts due under the BUSINESS CREDIT CARD.
- RFA NO. 27: The principal amount owing under the BUSINESS CREDIT CARD is $19,865.79.
- RFA NO. 28: The last payment on the BUSINESS CREDIT CARD was on August 7, 2023.
- RFA NO. 29: YOU have made no payments on the BUSINESS CREDIT CARD since the COMPLAINT was filed.
- RFA NO. 30: A demand letter was sent to you on July 26, 2024.
- RFA NO. 31: YOU have no defense to YOUR obligations to repay the monies sought by WELLS FARGO in this action.
- RFA NO. 32: Prior to being served with the COMPLAINT, YOU never communicated to WELLS FARGO any dispute over the amounts WELLS FARGO states that YOU owe.

Collectively, these admissions establish each element of both the breach of contract and the breach of guaranty causes of action.

Even if the admissions in the record were not sufficient to meet the standard for summary adjudication, and notwithstanding the requirement of strictly construing the moving party's declarations against the moving party, Herrera v. Deutsche Bank Nat'l Tr. Co., 196 Cal. App. 4th 1366, 1377 (2011), the Court finds that the Hobbs Declaration is compliant with Evidence Code § 1561 for the purpose of authenticating its exhibits. "The affidavit is admissible as evidence of the matters stated therein pursuant to Section 1561 and the matters so stated are presumed true. . . . The presumption established by this section is a presumption affecting the burden of producing evidence." Evidence Code § 1562. Defendant has offered no factual counter to Plaintiff's evidence.

TENTATIVE RULING #14: PLAINTIFF'S MOTION FOR SUMMARY ADJUDICATION ON THE FIRST, FOURTH, FIFTH AND EIGHTH CAUSES OF ACTION IS GRANTED.

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 621-6551 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07; SEE ALSO LEWIS V. SUPERIOR COURT, 19 CAL.4TH 1232, 1247 (1999).

NOTICE TO ALL PARTIES OF A REQUEST FOR ORAL ARGUMENT AND THE GROUNDS UPON WHICH ARGUMENT IS BEING REQUESTED MUST BE MADE BY TELEPHONE OR IN PERSON BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; EL DORADO COUNTY LOCAL RULE 8.05.07. PROOF OF SERVICE OF SAID NOTICE MUST BE FILED PRIOR TO OR AT THE HEARING.

LONG CAUSE HEARINGS MUST BE REQUESTED BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED AND THE PARTIES ARE TO PROVIDE THE COURT WITH THREE MUTUALLY AGREEABLE DATES ON FRIDAY AFTERNOONS AT 2:30 P.M. LONG CAUSE ORAL ARGUMENT REQUESTS WILL BE SET FOR HEARING ON ONE OF THE THREE MUTUALLY AGREEABLE DATES ON FRIDAY AFTERNOONS AT 2:30 P.M. THE COURT WILL ADVISE THE PARTIES OF THE LONG CAUSE HEARING DATE AND TIME BY 5:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. PARTIES MAY PERSONALLY APPEAR AT THE HEARING.

IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM, PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.