October 16, 2026, Civil Law & Motion Tentative Rulings

1. CL0003239 Loan Asset Issuer LLC Series 2021 M 2 vs. Michael Perdue

The August 1, 2026, motion of Defendant Michael Perdue to compel arbitration and stay proceedings is granted.

There is no dispute that an agreement to arbitrate exists. Plaintiff argues Defendant has waived his right to arbitrate by acting inconsistently with his right to arbitrate. The Court disagrees.

Legal Standard

On petition of a party to an arbitration agreement to arbitrate a controversy, a court must order the petitioner and respondent to arbitrate the controversy if it determines the arbitration agreement exists, unless (1) the petitioner has waived its right to arbitrate; (2) grounds exist for the revocation of the agreement; or (3) "[a] party to the arbitration agreement is also a party to a pending court action or special proceeding with a third party, arising out of the same transaction or series of related transactions and there is a possibility of conflicting rulings on a common issue of law or fact." Code Civ. Proc. § 1281.2.

"[T]he party moving to compel arbitration bears the burden of establishing the existence of a valid agreement to arbitrate, and the party opposing arbitration bears the burden of proving by a preponderance of the evidence any fact necessary to its defense. The role of the trial court is to sit as a trier of fact, weighing any affidavits, declarations, and other documentary evidence, together with oral testimony received at the court's discretion, to reach a determination on the issue of arbitrability." *Hotels Nevada v. L.A. Pacific Center, Inc.* (2006) 144 Cal.App.4th 754, 758.

"[T]he policy " 'favoring' " arbitration is not one of promoting arbitration over litigation, but instead of ensuring that arbitration agreements are not disfavored, i.e., that they are treated like other contracts." *Quach v. California Commerce Club, Inc.* (2024) 16 Cal.5th 562, 579. "Accordingly, in determining whether a party to an arbitration agreement has lost the right to arbitrate by litigating the dispute, a court should treat the arbitration agreement as it would any other contract, without applying any special rules based on a policy favoring arbitration." *Id*. at 583.

"To establish waiver under generally applicable contract law, the party opposing enforcement of a contractual agreement must prove by clear and convincing evidence that the waiving party knew of the contractual right and intentionally relinquished or abandoned it." *Quach, supra,* 16 Cal.5th at 584; see *Waller v. Truck Ins. Exchange, Inc*. (1995) 11 Cal.4th 1, 31. "Under the clear and convincing evidence standard, the proponent of a fact must show that it is 'highly probable' the fact is true." *Ibid*. "Its intentional relinquishment or abandonment of the right may be proved by evidence of words expressing an intent to relinquish the right or of conduct that is so inconsistent with an intent to enforce the contractual right as to lead a reasonable fact finder to conclude that the party had abandoned it." *Ibid*.

"In general, waiver determinations consider the totality of the parties' actions and specifically whether their combined actions " ' "indicate a conscious decision ... to seek judicial judgment on the merits of the arbitrable claims, which would be inconsistent with a right to arbitrate." ' " [Citation.]" *Mitchell v. Lilac Solutions, Inc.* (2026) 122 Cal.App.5th 707, 347 Cal.Rptr.3d 536, 543. "Under this totality analysis, trial courts have "considerable flexibility to determine when waiver occurs" in the particular circumstances presented." *Ibid*.

Analysis

At bar, Plaintiff presents evidence that Defendant filed an Answer on November 3, 2025. Marquez Decl., ¶ 3, and that he waited until August 10, 2026, to serve the present motion. Marquez Decl., ¶ 5. Defendant's Answer, however, does not indicate an intent to waive arbitration. Moreover, there is no record evidence that Defendant sought affirmative relief through a cross-pleading. Plaintiff contends by way of declaration (bearing a different case number) that the parties propounded and/or responded to discovery (without attaching *any* copies of the same); Defendant disputes the same by way of declaration. On the record presented, there is no clear and convincing evidence that Defendant engaged in actions that would indicate a conscious decision to seek judicial judgment on the merits of the arbitrable claims, inconsistent with a right to arbitrate.

Plaintiff has failed to demonstrate that Defendant has waived his right to arbitration. Defendant's motion to compel arbitration is granted.

2. CU0000376 Liam Moriarty vs. Tahoe Club Employee Company, et al.

Appearances are required. A motion for preliminary approval of the settlement was calendared for hearing but not filed. The parties shall update the Court as to the status of the same.

3. CU0000430 Sierra Foothills Construction Co vs. Matthew Coulter

By motion filed on or about September 9, 2026, Respondent seeks to exclude the testimony of the following proposed witnesses: Former GVPD Officer Herrera, GVPD Chief Gamalgaard, Tom Last, David Ferguson, and Cameron Coulter. Briefing in opposition by Petitioner was due by September 24, 2026; no timely opposition was filed. As such, the Court deems Petitioner's failure to oppose the motion as consent to the granting of the same. *See* Cal. Rules of Court, rule 8.54(c) ("failure to oppose a motion may be deemed a consent to the granting of the motion."); *see, e.g., Amato v. Downs* (2022) 78 Cal.App.5th 435, 440, n.3 (unopposed motion can be granted on that basis, citing rule 8.54(c)).

4. CU0000634 Carla Marie Vieira vs. California Department of Transportation, et al.

The September 22, 2026, motion of Defendant Estate of Judith Knolle for sanctions against Plaintiff Carla Maria Vieira and her counsel of record pursuant to Code of Civil Procedure section 128.7 is granted.

Defendant argues Plaintiff Vieira ("Plaintiff") should be sanctioned for maintaining the allegations against it which have no evidentiary support even after a reasonable opportunity for further investigation or discovery. The Court agrees.

Applicable Law

The applicable principles governing Code of Civil Procedure section 128.7 are set forth in *Kumar v. Ramsey* (2021) 71 Cal.App.5th 1110:

> Section 128.7 applies only in limited circumstances. It "authorizes trial courts to impose sanctions to check abuses in the filing of pleadings, petitions, written notices of motions or similar papers." *Musaelian v. Adams* (2009) 45 Cal.4th 512, 514. Under that authority, trial courts may issue sanctions, including monetary and terminating sanctions, against a party for filing a complaint that is legally or factually frivolous. Code Civ. Proc. § 128.7(b)-(d); *Ponce v. Wells Fargo Bank* (2018) 21 Cal.App.5th 253, 263-264. "A claim is factually frivolous if it is 'not well grounded in fact' and is legally frivolous if it is 'not warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law.' [Citation.] In either case, to obtain sanctions, the moving party must show the party's conduct in asserting the claim was objectively unreasonable. [Citation.] A claim is objectively unreasonable if 'any reasonable attorney would agree that [it] is totally and completely without merit.' [Citations.]" *Bucur v. Ahmad* (2016) 244 Cal.App.4th 175, 189.
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> "A court has broad discretion to impose sanctions if the moving party satisfies the elements of the sanctions statute." *Peake v. Underwood* (2014) 227 Cal.App.4th 428, 441 (Peake). … Code of Civil Procedure section 128.7 should be utilized only in "the rare and exceptional case where the action is clearly frivolous, legally unreasonable or without legal foundation, or brought for an improper purpose." *Operating Engineers Pension Trust v. A-C Co*. (9th Cir. 1988) 859 F.2d 1336, 1344. "Because our adversary system requires that attorneys and litigants be provided substantial breathing room to develop and assert factual and legal arguments, [section 128.7] sanctions should not be routinely or easily awarded even for a claim that is arguably frivolous" *Peake*, supra, 227 Cal.App.4th at p. 448, and instead "should be 'made with restraint.' " *Peake*, at p. 448. Indeed, even if a plaintiff could not successfully defend against either demurrer or summary judgment, that alone is insufficient to support the sanction of dismissal. *Ibid.*

Id. at 1120–1121 (parentheses and parallel citations omitted).

> To avoid sanctions under section 128.7, "the issue is not merely whether the party would prevail on the underlying factual or legal argument," but rather whether any reasonable attorney would agree that the claim is totally and completely without merit. *Peake*, supra, 227 Cal.App.4th at p. 448. Hence, the evidentiary burden to escape sanctions under section 128.7 is light. [The opposing party] must make a sufficient evidentiary showing to demonstrate that he made a reasonable inquiry into the facts and entertained a good faith belief in the merits of the claim. [The opposing party] need not amass even enough evidence to create a triable issue of fact as would be required if [the moving party] had

brought a motion for summary judgment, or allege a valid cause of action, as required to overcome a demurrer.

Id. at 1120–1126 (parentheses and parallel citations omitted).

"[A] litigant's obligations with respect to the contents of these papers are not measured solely as of the time they are filed with or submitted to the court, but include reaffirming to the court and advocating positions contained in those pleadings and motions after learning that they cease to have any merit." *Primo Hospitality Group, Inc. v. Haney* (2019) 37 Cal.App.5th 165, 177. "[I]f evidentiary support [for an allegation made on information and belief] is not obtained after a reasonable opportunity for further investigation or discovery, the party has a duty under the rule not to persist with that contention." *Ibid.*

Analysis

At bar, no timely opposition was filed by Plaintiff. As such, the Court deems Plaintiff's failure to oppose the motion as consent to the granting of the same. *See* Cal. Rules of Court, rule 8.54(c) ("failure to oppose a motion may be deemed a consent to the granting of the motion."); *see, e.g., Amato v. Downs* (2022) 78 Cal.App.5th 435, 440, n.3 (unopposed motion can be granted on that basis, citing rule 8.54(c)).

Turning to the merits, the Court notes that the safe harbor requirement has been satisfied. *See* Code Civ. Proc. §§ 128.5, subd. (f)(1)(B), 128.7, subd. (c)(1).

Plaintiff was deposed and testified Ms. Knolle was killed by a tree falling on her vehicle, that Ms. Knolle was deceased when her vehicle struck Plaintiff, and that Plaintiff believed Ms. Knolle was deceased upon the tree hitting her. Morrissey Decl., Ex. I, 8:7-10, 8:18, 9:15-17. Plaintiff herself did not seem to be aware she was suing Defendant, she was only aware she was suing Caltrans. Morrissey Decl., Ex. I, 7:9-18. The police report investigation and report concluded the cause of the accident was "other than driver." Morrissey Decl., ¶ 2, Ex. A at p. 15:8. A witness testified that Ms. Knolle had no time to react to the tree falling. Morrissey Decl., ¶ 2, Ex. A at p. 13:35-36. Plaintiff was previously ordered to conduct discovery within a 6-month period and meet and confer with Defendant upon completion of discovery regarding Plaintiff's intentions with respect to a claim against the Estate of Knolle. While Plaintiff's deposition was taken, it appears she has conducted no further discovery as to the Estate of Knolle. Morrissey Decl., ¶ 9, Ex. H. Additionally, Defendant has diligently attempted to meet and confer with Plaintiff on the issue of liability, with no response from Plaintiff. Morrissey Decl., ¶ 9, Ex. H.

To prevail on the instant motion, Defendant must show that any reasonable attorney would agree a claim for negligence against it is totally and completely without merit. Defendant has done so and Plaintiff has made no showing to the contrary. The claim for negligence against Defendant has no identified evidentiary support and is factually frivolous.

A sanction for violating Section 128.7(b) shall be limited to what is sufficient to deter repetition of this conduct. Code Civ. Proc. § 128.7(d). "When imposing sanctions, the court shall describe

the conduct determined to constitute a violation of this section and explain the basis for the sanction imposed." Code Civ. Proc. § 128.7(e).

Under the circumstances presented, the Court finds and concludes that sanctions of $660.00 payable by Plaintiff's counsel and dismissal of the claim against Defendant Estate of Knolle are appropriate and sufficient. Plaintiff, through counsel, brought allegations and persisted in the pursuit of the allegations against the Estate after investigation and discovery revealed that the allegations lacked any evidentiary foundation. Moreover, Plaintiff's counsel failed to engage in court-ordered meet and confer efforts after conducting additional discovery.

5. CU0002762 Erin Hemmert vs. Victor Community Support Services, Inc.

The August 6, 2026, motion of Defendant Victor Community Support Services, Inc. for a stay of action is granted.

Defendant argues that two earlier-filed cases involve substantially similar claims and parties currently pending against Defendant Victor Community Support Services, Inc.: (1) *Darrell Alder II v. Victor Community Support Services, Inc.*, Los Angeles County Superior Court, Case No. 25STCV29336 ("Alder Class Action"); and (2) *Darrell Alder II v. Victor Community Support Services, Inc.,* Los Angeles County Superior Court, Case No. 25STCV35758 ("Alder PAGA Action"). In opposition, Plaintiff argues the principle of exclusive concurrent jurisdiction only applies when the pending actions involve the same parties and causes of action. Defendant has the better argument.

Request for Judicial Notice

Defendant's unopposed request for judicial notice of exhibits 1-2 is granted.

Legal Standard

"California recognize[s] the judge-made doctrine of exclusive concurrent jurisdiction." *Shaw v. Superior Court of Contra Costa County* (2022) 78 Cal.App.5th 245, 255.

> [W]hen two or more courts have subject matter jurisdiction over a dispute, the court that first asserts jurisdiction assumes it to the exclusion of the others. [Citation.] The rule is based upon the public policies of avoiding conflicts that might arise between courts if they were free to make contradictory decisions or awards relating to the same controversy and preventing vexatious litigation and multiplicity of suits. [Citation.] ... [¶] ... ' "[T]he rule of exclusive concurrent jurisdiction does not require absolute identity of parties, causes of action or remedies sought in the initial and subsequent actions. [Citations.] If the court exercising original jurisdiction has the power to bring before it all the necessary parties, the fact that the parties in the second action are not identical does not preclude application of the rule. Moreover, the remedies sought in the separate actions need not be precisely the same so long as the court exercising original jurisdiction has the power to litigate all the issues and grant all the relief to which any of the parties might be entitled under the pleadings. [¶] ... Where the

> exclusive concurrent jurisdiction rule applies, the second action should be stayed. [Citation].

Shaw, 78 Cal.App.5th at 255–257.

Under the doctrine, "although the parties in the two actions and the remedies sought need not be precisely the same, the issues in the two proceedings must be substantially the same and the individual suits must have the potential to result in conflicting judgments." *County of Siskiyou v. Superior Court* (2013) 217 Cal.App.4th 83, 91. "The requirements that the matter in the latter case be necessarily related, and that the issues in the two cases be substantially the same, are limits on the rule of exclusive concurrent jurisdiction." *Id.* at 92.

In addition, " 'a court ordinarily has inherent power, in its discretion, to stay proceedings when such a stay will accommodate the ends of justice.' As the court in *Landis v. North American Co.* (1936) 299 U.S. 248, 254, explained, 'the power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants.' " *OTO, L.L.C. v. Kho* (2019) 8 Cal.5th 111, 141 (citation omitted); *accord, St. Paul Fire and Marine Insurance Company v. AmerisourceBergen Corporation* (2022) 80 Cal.App.5th 1, 6–7.

> "Granting a stay in a case where the issues in two actions are substantially identical is a matter addressed to the sound discretion of the trial court. 'In exercising its discretion the court should consider the importance of discouraging multiple litigation designed solely to harass an adverse party, and of avoiding unseemly conflicts with the courts of other jurisdictions. It should also consider whether the rights of the parties can best be determined by the court of the other jurisdiction because of the nature of the subject matter, the availability of witnesses, or the stage to which the proceedings in the other court have already advanced.' "

St. Paul Fire and Marine Insurance Company, 80 Cal.App.5th at 14, *quoting Thomson v. Continental Ins. Co.* (1967) 66 Cal.2d 738, 746-747 (citations omitted).

Analysis

At bar, the wage-and-hour claims and the representative claims under the Private Attorneys General Act of 2004 ("PAGA," Lab. Code section 2698, *et seq*.) asserted in the instant lawsuit substantially overlap with – and, indeed, are subsumed by - the class and PAGA claims asserted against the same employer, on behalf of the same employees, in the Alder Class Action and the related Alder PAGA action. Under the exclusive concurrent jurisdiction rule and this Court's inherent powers, a stay is warranted to avoid duplicative litigation, conserve judicial and party resources, and prevent the risk of inconsistent judgments and duplicative awards for the same conduct and parties. None of Plaintiff's arguments to the contrary persuade the Court otherwise. The Court stays all proceedings in this action, pending final resolution of the Alder Class Action and Alder PAGA Action, or until further order of the Court. In addition, should either of the noted Alder actions be dismissed or otherwise fail to resolve the overlapping class and representative claims asserted in this action, any party may apply to lift the stay.

6. CU0002312 Raymond Davey vs. Close Associates, et al.

The August 10, 2026, demurrer of Defendant Craig Close, dba Close Associates to the complaint is denied as moot.

On October 5, 2026, Plaintiff filed a First Amended Complaint (FAC) against Defendant. "[A]n amendatory pleading supersedes the original one, which ceases to perform any function as a pleading." *JKC3H8 v. Colton* (2013) 221 Cal.App.4th 468, 477 (quotations and citations omitted). "The amended complaint furnishes the sole basis for the cause of action, and the original complaint ceases to have any effect either as a pleading or as a basis for judgment. [¶] Because there is but one complaint in a civil action, the filing of an amended complaint moots a motion directed to a prior complaint." *Ibid.* (quotations, and citations omitted). "Thus, the filing of [the FAC] renders moot [the] demurrer to the original [Complaint]." *Ibid.* (quotations and citations omitted).