

August 14, 2026, Civil Law & Motion Tentative Rulings

1. CU0001581 Robert Wilmot, et al. vs. Jason Medich, et al.

One of the parties apparently reserved this date for the filing of a motion; none was filed. This matter is removed from calendar.

2. CU0001924 Robert Ponce vs. Hunt & Sons, Inc., et al

Plaintiff's motion for class list is granted.

Request for Judicial Notice

Defendant Hunt Oil's requests for judicial notice are granted.

Timeliness

Hunt and Sons and Hunt Oil argue that the motion was not timely served and should be denied as such. Based on the hearing date of August 14, 2026, the deadline to serve the present motion electronically was July 21, 2026. *See* Code Civ. Proc. § 1005(b); 1010.6(a)(3)(B). The motion's proof of service reflects service on July 23, 2026. Despite the untimely service, Defendants have filed robust oppositions. The Court exercises its discretion to consider the motion on the merits. *See* Cal. Rules of Ct., Rule 3.1300(d); *Kapitanski v. Von's Grocery Co.* (1983) 146 Cal.App.3d 29, 32.

Precertification Discovery

Plaintiff moves for an order approving a *Belaire-West* notice procedure and compelling Defendants to provide a neutral notice administrator with the names and contact information of the putative class members, subject to an opportunity to object to disclosure. Per Plaintiff, this limited discovery is necessary to determine whether a suitable substitute class representative exists and to permit Plaintiff to seek leave to file a narrowed amended complaint. Defendants Hunt and Sons and Hunt Oil argue generally that precertification discovery should be denied because the risk of abuse of the class action procedure outweighs any conceivable benefit to the class, and specifically, among other things, that: Plaintiff lacks standing to pursue his claims; discovery would unjustifiably invade putative class members' privacy rights, and the potential class members can still seek a remedy on their own. On balance, the Court is persuaded that limited discovery is warranted.

"A class representative who is not a class member or is otherwise unqualified to serve as class representative may, in a proper case, move for precertification discovery for the purpose of identifying a new class representative. California courts have recognized that such a motion for precertification discovery presents a potential for abuse of the class action procedure, but also implicates the rights and interests of potential class members on whose behalf the complaint was filed." *Safeco Ins. Co. of America v. Superior Court* (2009) 173 Cal.App.4th 814, 828.

"The decision to permit or not permit precertification discovery in a class action is committed to the wide discretion of the trial court." *CVS Pharmacy, Inc. v. Superior Court* (2015) 241

Cal.App.4th 300, 307. “Even a lead plaintiff who for some reason is unqualified to serve as a class representative ‘may, in a proper case, move for precertification discovery for the purpose of identifying a new class representative.’ ” *Pirjada v. Superior Court* (2011) 201 Cal.App.4th 1074, 1084. “ ‘Precertification class discovery is not a matter of right.... Before allowing class counsel to find a viable class representative, trial courts must apply a balancing test and weigh the actual or potential abuse of the class action procedure against the potential benefits that might be gained.’ ” *Id.*, citing *Starbucks Corp. v. Superior Court* (2011) 194 Cal.App.4th 820, 825; see also *CVS Pharmacy, Inc. v. Superior Court* (2015) 241 Cal.App.4th 300, 307 (“Precertification class discovery is not a matter of right. In making its determination, the trial court must employ the ‘Parris balancing test’: weighing the actual or potential abuse of the class action procedure against the benefits that might be gained.”)

Relevant factors, among others include: (1) whether the filing or maintenance of a class action is under circumstances where the plaintiff cannot allege standing in good faith,” *Safeco Ins. Co.*, 173 Cal.App.4th 814, 828, 833¹; (2) the rights of the class members and whether they are substantial; *id.* at 834; (3) whether the circumstances make it likely that class members would be denied relief if precertification discovery were not allowed, *ibid*; (4) whether and how the discovery request might impinge on identifiable privacy rights of potential class members. See, e.g., *Belaire-West Landscape, Inc. v. Superior Court* (2007) 149 Cal.App.4th 554, 561; *CVS Pharmacy, Inc.*, 241 Cal.App.4th at 313.

First, available information and evidence appearing in the present record suggests or indicates that Plaintiff Ponce is experiencing a medical condition that does not allow him to continue serving as class representative. Koleson Decl., ¶¶ 6, 9, 11-12; RJN Ex. C.

Second, Plaintiff can and has alleged standing in good faith in connection with at least some wage claims. While Defendants argue that many of Plaintiff’s claims are potentially subject to pre-emption under federal law or exemption under California law (*i.e.*, overtime, meal and rest period claims), even Defendants expressly and impliedly concede that some of the claims (*i.e.*, wage and hour claims) are not. Defendants have not persuasively demonstrated that Plaintiff lacks standing such that discovery would constitute an abuse of the class action procedure.

Third, the rights of the class members are substantial. “[A]t stake here is the fundamental public policy underlying California’s employment laws. [T]he prompt payment of wages due an employee is a fundamental policy of this state.” *Belaire-West Landscape, Inc.*, 149 Cal.App.4th at 562 (quotations and citation omitted). In addition, “[t]he current and former employees are potential percipient witnesses to [Defendants’] employment and wage practices, and as such their identities and locations are properly discoverable.” *Ibid*. California’s recognized interest in using class actions to resolve common wage claims efficiently.

Fourth, on the record presented, it appears that class members potentially could be denied relief if precertification discovery were disallowed. Defendants summarily suggest that other remedies remain available for putative class members to pursue. Plaintiff summarily note that denying discovery may extinguish individually modest wage claims because of circumstances personal to

¹ If so, a court can also examine whether plaintiff or their attorneys had no reasonable, good faith belief they had standing when named as a plaintiff. *Safeco Ins. Co.*, 173 Cal App 4th at 834.

Mr. Ponce rather than any determination as to the merits. Neither side provides a great deal of robust argument/facts for their respective positions. Denial of relief appears possible on this record.

Fourth, the discovery request, as presented would not unreasonably intrude upon the privacy rights of class members. To be sure, “the contact information for [Defendants’] current and former employees deserves privacy protection.” *Belaire-West Landscape, Inc.*, 149 Cal.App.4th at 561. “While it is unlikely that the employees anticipated broad dissemination of their contact information when they gave it to [Defendants], that does not mean that they would wish it to be withheld from a class action plaintiff who seeks relief for violations of employment laws.” *Ibid.* “[C]urrent and former [] employees reasonably [can] be expected to want their information disclosed to a class action plaintiff who may ultimately recover for them unpaid wages that they are owed.” *Ibid.* Moreover, “no serious invasion of privacy would result from the release of the names, last known addresses, and last known telephone numbers of current and former employees as long as the disclosure was limited to the named plaintiff[] in a putative class action filed against their employer following a written notice to each employee giving them the opportunity to object to the disclosure of that information.” *Ibid.* “Disclosure of the contact information with an opt-out notice would not appear to unduly compromise either informational privacy [*i.e.*, protection against “dissemination and misuse of sensitive and confidential information”] or autonomy privacy [*i.e.*, protection against interference with “personal activities and decisions”] in light of the opportunity to object to the disclosure. *Id.* at 559, 561.

In sum, after applying a balancing test and weighing the actual or potential abuse of the class action procedure against the potential benefits that might be gained, the Court concludes that precertification discovery, as outlined in Plaintiff’s motion at 9:12-10:1, is warranted. The benefits of this discovery clearly and substantially outweigh any potential risk of potential abuse or prejudice to the putative class members.

3. CU0002002 Cynthia Repella vs. Tania Blair

This matter is removed from calendar pursuant to the notice of withdrawal of the motion to be relieved as counsel filed June 4, 2026.

4. CU0002304 Jason Christ v. Justis Barquilla

Plaintiff Jason Christ’s motion to strike portions of defendant’s answer and cross-complaint is granted in part.

Meet and Confer

Defendant argues that Plaintiff failed to meet and confer prior to filing the motion to strike. Defendant appears correct. “Before filing a motion to strike pursuant to [Code of Civil Procedure sections 435 to 437b], the moving party shall meet and confer” Code Civ. Proc., § 435.5(a). There is no evidence that Plaintiff did do here. That said, “[a] determination by the court that the meet and confer process was insufficient shall not be grounds to grant or deny the motion to strike.” Code Civ. Proc., § 435.5(a)(4). “If, upon review of a declaration under section [435.5(a)(3)] a court learns no meet and confer has taken place, or concludes further conferences

between counsel would likely be productive, it retains discretion to order counsel to meaningfully discuss the pleadings with an eye toward reducing the number of issues or eliminating the need for a demurrer, and to continue the hearing date to facilitate that effort.” *Dumas v. Los Angeles County Board of Supervisors* (2020) 45 Cal.App.5th 348, 355, fn. 3. Here, the Court does not believe further conferences are necessary and turns to the merits. Plaintiff shall comply with all required meet and confer requirements hereafter under the Rules of Civil Procedure.

Legal Standard

"Any party, within the time allowed to respond to a pleading may serve and file a notice of motion to strike the whole or any part thereof" Code Civ. Proc. § 435(b)(1). "The court may, upon a motion made pursuant to Section 435, ..., and upon terms it deems proper: (a) Strike out any irrelevant, false, or improper matter inserted in any pleading. (b) Strike out all or any part of any pleading not drawn or filed in conformity with the laws of this state, a court rule, or an order of the court." Code Civ. Proc. § 436.

Cross-Complaint

Plaintiff seeks to strike certain portions of Defendant’s cross-complaint. Defendant filed a request for dismissal of the cross-complaint on July 30, 2026. Therefore, the motion to strike as it applies to the cross-complaint is moot.

Answer

Plaintiff moves to strike Defendant’s “frivolous claim” affirmative defense arguing it is not an affirmative defense and that it is a legal conclusion. Point one of this argument has merit.

“An affirmative defense is ‘new matter constituting a defense’ ... and is defined as ‘[a] defendant's assertion of facts and arguments that, if true, will defeat the plaintiff's or prosecution's claim, even if all the allegations in the complaint are true.’ ” *Morris Cerullo World Evangelism v. Newport Harbor Offices & Marina, LLC* (2021) 67 Cal.App.5th 1149, 1158, citing Code Civ. Proc. § 431.30(b)(2)), and Black’s Law Dict. (11th ed. 2019) p. 528, col. 2. “Because an affirmative defense can only defeat a plaintiff's claim, and [a]ffirmative relief is ‘an award, such as damages, that goes beyond merely defeating the plaintiff's recovery’, it follows logically that an affirmative defense cannot give rise to affirmative relief such as damages.” *Ibid.*, citing *City of Stockton v. Superior Court* (2007) 42 Cal.4th 730, 746, fn. 12.

Such is the case here. Defendant alleges as a defense that Plaintiff’s claim is frivolous, reserves the right to dismiss the same, and reserves the right to seek fees and costs “pursuant to statute,” apparently a reference to Code of Civil Procedure section 128.5. This “defense,” as articulated, will not *defeat* Plaintiff’s claims *per se*. Moreover, the defense potentially seeks affirmative relief—fees and costs. The frivolous claim defense, therefore, is properly stricken from the answer, without prejudice. Both parties may, as they deem warranted, seek relief under Code of Civil Procedure section 128.5 by noticing, filing and serving an appropriate motion.

Defendants' Robert Thomas and Deborah Thomas unopposed motion to strike portions of the complaint related to punitive damages is granted with leave to amend.

Legal Standard

A motion to strike punitive damages is properly granted where a plaintiff does not state a *prima facie* claim for punitive damages, including allegations that defendant is guilty of oppression, fraud or malice. *Turman v. Turning Point of Cent. California, Inc.* (2010) 191 Cal.App.4th 53, 63.

Punitive damages are authorized in tort actions "where the tortious event involves an additional egregious component - 'oppression, fraud, or malice.'" *College Hospital, Inc. v. Superior Court* (1994) 8 Cal.4th 704, 712, citing Civ. Code § 3294(a).

"Oppression" is defined as "despicable conduct that subjects a person to cruel and unjust hardship in conscious disregard of that person's rights." Civ. Code, § 3294 (c)(2). Malice is defined as "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." Civil Code section 3294b(c)(1) (italics added.) "For plaintiffs attempting to prove malice by showing a 'conscious disregard' of their rights as opposed to an actual intent to harm, the Act imposed additional requirements of 'despicable' and 'willful' defense conduct." *College Hospital*, 8 Cal.4th at 713. "'Despicable conduct' is defined ... as 'conduct which is so vile, base, contemptible, miserable, wretched or loathsome that it would be looked down upon and despised by ordinary decent people.' Such conduct has been described as '[having] the character of outrage frequently associated with crime.'" *Tomaselli v. Transamerica Ins. Co.* (1994) 25 Cal.App.4th 1269, 1287.

The allegations supporting a request for punitive damages must be alleged with specificity; conclusory allegations without sufficient facts are not enough. *Smith v. Superior Court* (1992) 10 Cal.App.4th 1033, 1041-1042.

Analysis

At bar, Defendants argue Plaintiff's complaint fails to plead sufficient factual allegations to support a prayer for punitive damages, as it merely makes conclusory allegations with no factual basis. Mot., 2:21-22 5, Compl. 3rd COA. Defendant also argues there are no facts alleged to show "despicable conduct" on the part of Defendant, and the conduct alleged is rooted in negligence. Mot., 5: 12-17. The Court agrees in large part.

First, Plaintiff has filed no opposition to the motion; 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)).

Second, the complaint presently does not sufficiently allege facts that Plaintiff engaged in tortious conduct that involved oppression, fraud or malice as required. See Compl. 3rd COA (“Defendant ROBERT THOMAS, the owner of the dog, knew or should have known about the dog’s propensity to bite/attack and still allowed the dog to come in to contact with others unattended such that Defendants are subject to punitive damages as set forth in California Civil Code § 3294.”).

“The rules governing the right to amend a defective pleading are settled. Where the defect raised by a motion to strike or by 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.” *Velez v. Smith* (2006) 142 Cal.App.4th 1154, 1174 (citations and quotations omitted). However, “[t]he burden is on plaintiffs to prove that amendment could cure the defect.” *King v. CompPartners, Inc.* (2018) 5 Cal.5th 1039, 1050. “[A] plaintiff must submit a proposed amended complaint or, ..., enumerate the facts and demonstrate how those facts establish a cause of action [or request for relief].” *Salazar v. Target Corporation* (2022) 83 Cal.App.5th 571, 577. Plaintiff did not oppose the motion and has made no showing how the defects are reasonably capable of cure. On the record presented, leave to amend is denied.

6. CU0000090 Matthew Palleschi, et al. v. Daniel Fraiman Construction, Inc., et al

Appearances are required in connection with the motion for a trial continuance by Defendant CG West Flooring, dba Artisan Hardwood Floors, Inc.