Judge Benson – Law & Motion – Wednesday, October 29, 2025 @ 9:00 AM
TENTATIVE RULINGS

1. 20CV01090 In re: Uradzionek, William Louis

EVENT: Petitioner's Motion to Seal Court Records

Petitioner's Motion to Seal Court Records is DENIED. Petitioner has failed to demonstrate an overriding interest.

2-3. 21CV03075 Hall, Chantelle v. City of Chico et al.

EVENT: (1) Defendant City of Chico's Demurrer to the First Amended Complaint

(2) Defendant City of Chico's Motion to Strike Portions of the Plaintiff's First Amended complaint

Demurrer

Statute of Limitations

The demurrer on statute of limitations grounds is overruled. The FAC contains allegations that the sidewalk was repaired in February 2025, and that the repairs became a ramp that violated ADAAG. Thus, the repair incident occurred in February 2025, and the FAC alleging violations of the ADA with respect to the repairs was filed on 8/28/25, 6 months later, well within the statute of limitations period. The March 2021 incident and the February 2025 incident are separate incidents that implicate separate limitations periods. The Court is aware of no authority requiring Plaintiff to file her allegations concerning the February 2025 incident as a separate case.

Additionally, the Court is not convinced the 2025 repairs involve entirely different facts. The allegations involve the same section of sidewalk and the same parties. Further, there is no risk of unfair prejudice as no trial date is set and Defendant will have ample opportunity to investigate the facts underlying the 2025 repairs.

Subsequent Remedial Measures

A demurrer tests the pleadings alone and not the evidence or other extrinsic matters. (*SKF Farms v. Superior Court* (1984) 153 Cal.App.3d 902, 905) Whether the February

2025 repairs are inadmissible as subsequent remedial repairs is extrinsic matter in the context of demurrer.

There appears to be a nuanced issue of whether evidence of subsequent repair can be admissible on the issue of whether repair prior to the 2021 injury was reasonably feasible. In any event, it is simply not an appropriate to adjudicate such matters on demurrer. Further, the February 2025 repair allegations have independent legal significance apart from the 2021 injury.

Nuisance

The demurrer is overruled on the grounds the City has no standing to challenge a legal theory directed only to Defendant Villa Rita, LP. Villa Rita has not filed a notice of joinder with respect to this motion. Further, based on Court filings, it appears Villa Rita intends to file its own demurrer and/or motion to strike. Thus, it would be inappropriate to address the merits of this particular issue at this time.

ADA Claim

Preliminarily, the reference to the motion for summary judgment in the moving papers is improper, especially considering the motion was vacated. The Court finds the FAC sufficiently alleges facts concerning inaccessibility.

Rehabilitation Act Claim

The demurrer is overruled.

CDPA Claim

As the FAC sufficiently alleges ADA violations, the demurrer is overruled.

UNRUH Claim

The demurrer is sustained without leave to amend with respect to the City. The pleading is unclear as to which defendants the UNRUH claim is implicated. (Typically, the pleading will include a sub-heading indicating the defendants implicated in the particular cause of action or count). Because it is unclear, a ruling is necessary. As the City noted, UNRUH does not apply to government entities.

Premises Liability

The demurrer is sustained with leave to amend. Although the opposition identifies Gov. Code § 835 as a statutory basis for the claim, the FAC makes no reference to Gov. Code § 835.

To the extent the demurrer is sustained with leave to amend, Plaintiff shall amend within 20 days of this order.

Motion to Strike

The motion is denied.

Statute of Limitations

The motion is denied for the same reasons articulated in the demurrer.

New Causes of Action

The motion is denied. Under modern authority, leave to amend is liberally granted.

The City cites law with respect to "an entirely different set of facts." Although the facts concerning the 2025 repair may be different is some respects, they are not "entirely" different. It's the same parties and the same section of sidewalk.

Further, to the extent Plaintiff has previously argued the 2025 repairs are relevant to demonstrate that repair was feasible at the time of the 2021 incident, the 2021 incident and the 2025 incident are inextricably connected. The Court is not commenting on whether that argument has merit at this time, but the issue demonstrates why denying leave to amend would be improper.

Subsequent Remedial Measures

The motion is denied for the same reasons articulated in the demurrer.

Nuisance

The motion is denied for the same reasons articulated in the demurrer.

The City shall prepare and submit a form of order consistent with this ruling within 2 weeks.

4. 23CV01364 Dickson, Amber Bowen et al v. Amber Grove Place, LLC et al.

EVENT: Plaintiff's Motion to Invalidate Arbitration Agreements, Limit Defendants' Unilateral Communications with Putative Class Members, and Disqualify Defendants' Counsel

(Continued from 9/17/25 and 10/8/25)

Pre-Certification Opt-Outs Are Void

Preliminarily, the Court is not commenting on the enforceability or lack thereof of the dispute resolution agreements outside the context of this lawsuit. The critical issue before the Court is whether a waiver of participation in this lawsuit as a putative class member or class member is enforceable considering the waivers were executed while this case was pending.

California courts have recognized the trial court has both the duty and the authority to exercise control over precertification communications between the parties and putative class members to ensure fairness in class actions. (*Barriga v. 99 Cents Only Stores* (2001) LLC 51 Cal.App.5th 299, 307-308) The Court's research indicates there are very few published state court decisions on issues concerning pre-certification communications and the consequences of improper pre-certification communications. It is apparent, however, that California courts follow Federal decisions in this area of the law.

Ex parte solicitation of opt-outs by a defendant before class certification is improper. (*Camp v. Alexander* (2014) 300 F.R.D. 617, 625) The Court acknowledges the facts in *Camp* are very different from this case. Nevertheless, applying the standard that solicitation of opt-outs before class certification is improper, the Court finds the dispute resolution agreements are improper to the extent they waived putative class members' rights with respect to this case. As the Court noted in its previous ruling, the dispute resolution agreements were tantamount to an ex parte solicitation to opt out of this case. The existence of the agreements themselves are substantial evidence of solicitation of opt-outs.

Defense counsel argues there is no evidence of coercion, which raises the question of what the standard is with respect to pre-certification communications: is it solicitation of opt-outs, or is it coercion? "Solicitation" is commonly defined as "the act of asking for or trying to obtain something from someone." Conversely, coercion is commonly defined as "the practice of persuading someone to do something by use of force or threats." Obviously, coercion is more difficult to prove.

It is unclear to the Court whether the standard is solicitation or coercion, or whether coercion must be established only if there is no evidence of solicitation. Seemingly, solicitation would be intrinsic to coercion. In the event the legal standard requires more than solicitation and requires coercion, the Court finds the agreements are inherently coercive.

Camp noted courts are concerned with the potential for undermining the class action process. (*Camp, supra* at p. 624) In California, generally speaking, putative class members opt out only after they have been provided with a notice advising them what the case is about, what their

rights are, and identifies Plaintiffs' counsels' contact information in the event they have further questions.

Here, the agreements do identify this case, however the agreements provide one sentence regarding what the case is about, and they do not provide Plaintiffs' counsel's contact information. Ultimately, the agreement falls substantially short of the information which would ordinarily be provided. The failure to provide putative members with information concerning their rights and the failure to provide plaintiffs' counsel's contact information are facts demonstrating the agreements were inherently coercive.

Additionally, courts have recognized waivers executed by employees inherently have a higher degree of adhesion. (*See Farrar v. Direct Commerce, Inc.* (2017) 9 Cal.App.5th 1257, 1266 ["Courts must be "particularly attuned" to this danger in the employment setting, where "economic pressure exerted by employers on all but the most sought-after employees may be particularly acute"] and *Camp, supra* at p. 621 ["An ongoing employer-employee relationship is particularly sensitive to coercion."]

To be clear, the Court is not commenting or ruling that the agreement is unconscionable. Rather, it is simply a practical reality that many employees feel pressured to execute these types of agreements to please the employer. This fact in and of itself does not rise to the level of coercion. However, this combined with the short comings the Court has identified in the agreement, the Court makes the factual finding that the agreements were inherently coercive.

Consequently, the agreements are invalid to the extent they attempted to preclude putative class members from participating in this case.

Ex Parte Communications with Putative Class Members

Based on the Court's factual finding of improper solicitation, going forward, Defendant and its counsel are prohibited from engaging in ex parte communications with putative class members concerning this case without prior approval until further order of the Court.

A Corrective Notice is Required

In light of the Court's finding, a corrective notice is required. The Court has reviewed the proposed corrective notice drafted by Plaintiffs' counsel and finds the notice to be generally adequate. However, a few modifications are necessary.

As noted, this ruling is limited to invalidating the putative class-members' waiver to participate in this class action. The notice needs to make that clear. Further, the notice should indicate the Court is not making any rulings with respect to the enforceability of the agreement beyond that.

Plaintiff shall resubmit a proposed corrective notice no later than November 7, 2025. A review hearing is hereby scheduled for November 19, 2025 at 9:00am. Assuming the notice is in order and is approved by the Court, the Court will set a schedule for the mailing of the notices at that time. Defendant will be required to reimburse Plaintiffs' counsel for the mailing costs.

Employee Declarations

The Court denies Plaintiff's request to strike the declarations, however, the Court reserves the right to give appropriate weight to the declarations in light of the other evidence presented.

Request to Disqualify Defense Counsel

Plaintiffs' request to disqualify defense counsel is denied. There is no evidence of an attorney client relationship between defense counsel and any employee.

Request for Discovery Sanctions

Plaintiffs' request to invalidate the arbitration agreements as a discovery sanction is denied. The request for monetary sanctions is denied.

Plaintiffs shall prepare a form of order consistent with this ruling within 2 weeks.

5. 23CV01681 Horn, Scott et al v. Pioneer Nut Co et al.

EVENT: Defendant Katherine Horn's Motion to Set Aside Default

The motion is continued to November 12, 2025 at 9:00am for Ms. Horn to file a proposed responsive pleading. Provided that is accomplished, the motion will be granted.

Counsel for Defendants/Cross complainants has made several errors. Without those errors, it is highly likely this motion would have been unnecessary.

First, he elected to personally serve Ms. Horn despite being told that her counsel was willing to accept service on her behalf. Mr. Sharma's argument that he is entitled to serve her personally under the code is unpersuasive. It goes without saying that it is the best practice and a necessary professional courtesy to serve counsel in these circumstances instead of attempting an end around by serving the party directly.

When a party retains counsel, the party should be able to reasonably rely on the fact that counsel will be handling the matter on his or her behalf. Under these circumstances, it is reasonably foreseeable that Ms. Horn would disregard the service of the Summons and Complaint in light of the fact that she had previously retained counsel. Additionally, it is foreseeable that counsel would be in the dark that their client had been served and that a

responsive pleading was due. Had Mr. Sharma simply served the Summons and Complaint on counsel this whole situation would have most likely been avoided.

The argument that there was no representation in the CMC statements that counsel was representing Ms. Horn is irrelevant. Attorneys are officers of the Court and they are presumed to be stating the truth whether that is in an official court document or in correspondence with opposing counsel. The letters sent to Mr. Sharma were sufficient in indicating Ms. Horn was represented by counsel.

The second error was the failure to notify counsel of the intent to obtain a default. As the moving papers provide, it is well settled that it is improper to obtain a default against a party who is represented by counsel without first giving notice.

As an aside, counsel should be mindful of the Rutter Group materials. It is an important resource for civil litigators. The Rutter Group is frequently cited by both Appellate Courts and the California Supreme Court. It is relied on by trial courts throughout the state, including this Court.

6. 25CV03025 In re: Waheed, Shakeena Cordella

EVENT: Change on name (minor) (continued from 10/1/25)

The Court will conduct a hearing.

7. 25CV03051 People of the State of California v. Fisch, Jonathon Aaron

EVENT: Request to Challenge Disqualified Person Determination

The Court will conduct a hearing.

8. 25CV03227 In re: Solano, Judit Alexandra

EVENT: Change of name (minor)

The Court is in receipt of the proof of publication and will sign the decree provided.

9. 25CV03248 In re: Walker, Alexander Dean

EVENT: Change of name (adult)

There is no proof of publication on file. Upon the filing of the proof of publication, the Court will sign the decree provided.

10. 25CV03297 In re: Hawkins, April Ann

EVENT: Change of name (adult)

There is no proof of publication on file. Upon the filing of the proof of publication, the Court will sign the decree provided.