

TENTATIVE RULINGS

*****This calendar will be called by Judge Benson*****

1. 16CV01891 BAILEY, CATHERINE C ET AL V. CATOMERISIOS, CATHY

EVENT: Petition for Release of Funds Following Entry of Judgment

In light of the pending appeal filed by Plaintiffs Catherine C. Bailey and J. Doug Sutton in relation to the Sacramento County Superior Court judgment upon which Ms. Goodman seeks the release of funds, any order by this Court for release of those funds would be premature. This matter is continued to June 14, 2023 at 9:00 a.m. for status of the pending appeal and ruling on the instant motion. The Court directs Ms. Goodman to file a serve a Status Report no later than June 7, 2023.

2. 22CV01940 RENTERIA GRACIANO, AGUSTINA ET AL V. HIGNELL, INCORPORATED, A CALIFORNIA CORPORATION

EVENT: Defendant Hignell, Incorporated's Motion to Strike Portions of Plaintiffs' First Amended Complaint

Plaintiffs' Request for Judicial Notice is granted. The Court declines to rule on Plaintiffs' evidentiary objections as there is no authority cited limiting the Court's determination of this particular motion to admissible evidence nor any authority requiring the Court to rule on evidentiary objections. The Court does take judicial notice of the fact that the filing date of the First Amended Complaint is February 16, 2023. The Court also finds that the Motion was timely made. See, CCP §§12a, 435(b)(1), (d), and 1010.6(a)(3)(B)-(C). Based on the above, and considering the merits of the Motion, the Court finds that although Defendant makes an allegation that Plaintiff Agustina Renteria Graciano's last date of employment was May 26, 2021 [See Motion at Pg. 4, Line 12] to accept such a claim would require the Court to look beyond the four corners of the First Amended Complaint at extrinsic evidence which is improper on a Motion to Strike. See, CCP §437(a) ["The grounds for a motion to strike shall appear on the face of the challenged pleading or from any matter of which the court is required to take judicial notice."] Plaintiffs allege in the First Amended Complaint that Plaintiff Agustina Renteria Graciano's employment ended in September 2021, thus the service of her PAGA LWDA notice was within the one-year statute of limitations when served on June 6, 2022. The Motion is denied on this basis. Finally, as to the manageability of the Plaintiffs' PAGA claims, the Court finds that pursuant to the holding in *Estrada v Royalty Carpet Mills, Inc.* (2022) 76 Cal.App.5th 685, a court cannot strike a PAGA claim based on manageability. The Court finds the Estrada ruling to be well reasoned, factually similar, and compelling and therefore, although there is a split in authority, declines to following the ruling in *Wesson v. Staples the Off. Superstore, LLC* (2021) 68 Cal. App. 5th 746. The Court agrees with the Court in *Estrada* that a court cannot strike a PAGA claim based on manageability because PAGA claims are unlike conventional civil suits and in particular are not class actions. Allowing dismissal of unmanageable

PAGA claims would effectively graft a class action requirement onto PAGA claims, undermining a core principle of numerous authorities. It would also interfere with PAGA's purpose as a law enforcement mechanism by placing an extra hurdle on PAGA plaintiffs that is not placed on the state. *Estrada, supra* at 697. The Motion is denied on this basis as well. The Motion is denied. Defendant Hignell, Incorporated shall file its Answer within 10 days' notice of this Ruling, no later than May 15, 2023.

3. 22CV02166 NORTHERN CALIFORNIA COLLECTION SERVICE, INC. V. BOHLANDER, MARK J, MD

EVENT: Plaintiff Northern's Motion for Code of Civil Procedure Section 128.7 Sanctions Striking Defendant's Affirmative Defenses

Plaintiff's Request for Judicial Notice is granted. The Court has reviewed each of Defendant Mark J. Bohlander, M.D.'s Affirmative Defenses, as well as Defendant's Responses to Form Interrogatory Set One, No. 15.1 in relation to those Affirmative Defenses, and finds that the defenses alleged and advocated by Defendant do have evidentiary and legal support. The Motion for Sanctions is denied.

4. 23CV00089 IN RE: GRIVETTE, LUNA MAE' ROSE

EVENT: Petition for Change of Name

If proper proof of publication is submitted at or before the hearing, the Petition will be granted.

5. 23CV00189 VOLLRATH, MICHAEL DAVID V. MID VALLEY TITLE COMPANY ET AL

EVENT: Defendant Income Interest Partners of Chico's Demurrer to Plaintiff's Complaint

Although unopposed, the Court declines to construe the lack of opposition as Plaintiff having abandoned his claims and has considered the sufficiency of Plaintiff's Complaint and the merits of the Demurrer. The Court finds that the Complaint is not so incomprehensible that Defendant cannot reasonably respond. See, *Lickiss v Financial Indus. Regulatory Auth.* (2012) 208 Cal.App.4th 1125, 1135. Thus, the demurrer on the grounds of uncertainty is overruled. The Court further finds that Plaintiff has sufficiently stated a cause of action for quiet title pursuant to CCP §761.020 and the demurrer on the ground of failure to state a cause of action is overruled. Finally, the Court finds that there has been no misjoinder of parties under CCP §430.10(d) and the demurrer on that ground is overruled as well. The demurrer is overruled in its entirety and Defendant shall file and serve a responsive pleading within 20 days' notice of this ruling.

6. 23CV00220 SMALL, WILLIAM R V. MCINTYRE, DEBROAH LYNN ET AL

EVENT: Defendants' Deborah Lynn McIntyre and Clifford G. Dupree's Demurrer to Plaintiff's Complaint

Defendant's Request for Judicial Notice is granted. The Court finds that each cause of action clearly identifies the Defendants and their alleged wrongdoing to support the relief requested, which the Court finds sufficient for Defendants to discern the allegations and respond to them. See, *Lickiss v Financial Indus. Regulatory Auth.* (2012) 208 Cal.App.4th 1125, 1135. The demurrer for uncertainty as to each cause of action is overruled. The Court finds that it does not appear clearly and affirmatively that, upon the face of the complaint, the right of action is necessarily barred. See, *Leasequip, Inc. v. Dapeer* (2002) 103 Cal. App. 4th 394, 400. Thus, the demurrer to the Complaint on the grounds that the claims are barred by the statute of limitations is overruled. Finally, the Court finds that Plaintiff has sufficiently stated a cause of action for financial elder abuse [See Complaint at ¶¶13, 14, 33, 35, 38, 39]; undue influence and constructive trust [See Complaint at ¶¶35, 38]; and intentional infliction of emotional distress [See Complaint at ¶¶15, 16, 17, 19, 20, 38, 41]. The demurrer to the First Cause of Action for Elder Abuse, Second Cause of Action for Undue Influence, Third Cause of Action for is Constructive Trust, and Fourth Cause of Action of Intentional Infliction of Emotional Distress on the grounds that each fails to state a cause of action, is overruled. The demurrer is overruled in its entirety and Defendant shall file and serve a responsive pleading within 14 days' notice of this ruling. Counsel for the Plaintiff shall submit a form of order within two weeks.

7. 23CV00223 IN RE: WILLIAMS, SHANNON

EVENT: Petition for Change of Name

The Court has not yet received proof of service on the father as required by *Code of Civil Procedure* §1277(a). The Court will hear from the Petitioner. If proof of service has not been submitted and there is no appearance by the Petitioner, this matter will be dismissed without prejudice.

8. 23CV00279 IN RE: JACKSON, DIANA MARIA

EVENT: Petition for Change of Name

The Court has not yet received proof of publication nor proof of service on the father as required by *Code of Civil Procedure* §1277(a). The Court will hear from the Petitioner.

9. 23CV00308 IN RE: SEATON, DELANNA JOAN

EVENT: Petition for Change of Name

All documents are in order, the Petition is granted, and the Court will sign the Decree submitted by the Petitioner. No appearances are required.

10. 23CV00361 IN RE: LIKARICH, COLTON LEE

EVENT: Petition for Change of Name

All documents are in order, the Petition is granted, and the Court will sign the Decree submitted by the Petitioner. No appearances are required.

11. 23CV00508 IN RE: LOAIZA, CASEY JAMES

EVENT: Petition for Change of Name

All documents are in order, the Petition is granted, and the Court will sign the Decree submitted by counsel. No appearances are required.

12. 23CV00530 IN RE: GARDINER, MELANIE

EVENT: Petition for Change of Name

All documents are in order, the Petition is granted, and the Court will sign the Decree submitted by the Petitioner. No appearances are required.

13. 23CV00531 IN RE: GARDINER, MELANIE

EVENT: Petition for Change of Name

All documents are in order, the Petition is granted, and the Court will sign the Decree submitted by the Petitioner. No appearances are required.