Superior Court of California
County of San Benito

Tentative Decisions for July 21, 2025

Courtroom #1: Judge J. Omar Rodriguez

CU-22-00233 Trinity Financial Services vs. Gutierrez, Isaias Rico

Trinity Financial Services, LLC ("Trinity") withdrew its subpoenas, which renders the Motion to Quash Moot. As to the request for attorney's fees submitted by Isaias Rico Gutierrez, the request is DENIED.

Code of Civil Procedure section 1987.2 states "the court may in its discretion award the amount of the reasonable expenses incurred in making or opposing the motion, including reasonable attorney's fees, if the court finds the motion was made or opposed in bad faith or without substantial justification or that one or more of the requirements of the subpoena was oppressive."

In other words, once the court finds that there is a motion or opposition, the court must determine whether the pleading was made in bad faith or without substantial justification or that one or more of the requirements of the subpoena was oppressive. Trinity never filed an opposition to the motion to quash, which is a prerequisite to permitting an award of expenses. The Court declines to determine whether the subpoena was oppressive as there was no opposition filed.

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****Please contact Judicial Courtroom Assistant, Lesley Pace, at (831) 636-4057 x127 or lpace@sanbenitocourt.org with any objections or concerns.**

Defendant's Demurrer to the Second and Third Causes of Action in the Second Amended Complaint ("SAC") are sustained with leave to amend. Plaintiff is to file an amended complaint and file and serve it upon Defendant within 20 calendar days from the date of this ruling. As a result, the Case Management Conference is continued to September 15, 2025 at 10:30 a.m.

A demurrer generally serves to test the legal sufficiency of the complaint's factual allegations. (*Genis v. Schainbaum* (2021) 66 Cal. App. 5th 1007, 1014.) It does not test the factual accuracy or truth of the facts alleged. The court must assume the truth of all properly pled allegations. The process of a demurrer does not serve to test the merits of the Plaintiff's case. (*Tenet Health System Desert Inc. v. Blue Cross of CA*. (2016) 245 Cal App 4th 821, 834.) Because a demurrer only challenges the defects on the face of the complaint, it can only refer to matters outside the pleadings which are subject to judicial notice. (*Id*. at 831.) For demurrer, a judge must treat the demurrer as an admission of all material facts properly pled in the challenged pleading or that reasonably rise by implication, however improbable they are. (*Collins v. Thurmond* (2019) 41 Cal. App 5th 879, 894.) As such, "the plaintiff must show the complaint alleges facts sufficient to establish every element of each cause of action." (*Rakestraw v. Cal. Physicians' Serv*. (200) 81 Cal.App.4th 39, 43.) "If the complaint fails to plead, or if the defendant negates, any essential element of a particular cause of action," the demurrer should be sustained. (*Id*.)

Generally, leave to amend is granted liberally. (*Foroudi v. Aerospace Corp*. (2020) 57 Cal.App.5th 992, 1000.) Leave to amend may be denied where in all probability that no amount of amendment will cure the defects, rendering the process futile. (*Ibid*.)

In order to make out a claim of FEHA harassment and hostile work environment, the plaintiff must plead that: 1) she belongs to a protected group; (2) plaintiff was subject to harassment; (3) the harassment complained of was based upon the plaintiff's membership in the protected group; (4) the harassment complained of was sufficiently pervasive so as to alter the conditions of employment and create an abusive working environment; and (5) respondent superior liability, if an employer is the defendant. (*See Fisher v. San Pedro Peninsula Hotel* (1989) 214 Cal.App.3d 590, 608.)

"Although discrimination and harassment are separate wrongs, they are sometimes closely interrelated, and even overlapping, particularly with regard to proof." (*Roby v. McKesson Corp*. (2009) 47 Cal.4th 686, 707.) "(H)arassment focuses on situations in which the social environment of the workplace becomes intolerable because the harassment (whether verbal, physical, or visual) communicates an offensive message to the harassed employee." (*Id. at 706*.) Commonly necessary personnel management actions do not come within the meaning of harassment, but these actions may be found discriminatory if based on improper motives, but in that event the remedies provided by the FEHA are those for discrimination, not harassment. (*Ibid*.) "(S)ome official employment actions done in furtherance of a supervisor's managerial role can also have a secondary effect of communicating a hostile message. This occurs when the actions establish a *widespread pattern of bias*." (*Id.* at 709, emphasis added.) "Because a harasser need not exercise delegated power on behalf of the employer to communicate an offensive message, it does not matter for purposes of proving harassment whether the harasser is the president of the company or an entry-level clerk, although harassment by a high-level manager of an organization may be more injurious to the victim because of the prestige and authority that the manager enjoys." (*Id.* at 706.)

Defendant argues that the Second and Third Causes of Action are insufficiently pled, arguing that there are no allegations that Defendant harassed Plaintiff based on race, sex, or her age or that the harassment was severe or pervasive. Though the SAC alleges that Defendant engaged in pervasive conduct creating a hostile work environment the allegations made reference only the following acts 1) denying Plaintiff a promotion; 2) promoting a younger and less experienced employee on the basis that Plaintiff was not ready for the promotion; 3) Defendant did not provide any further detailed explanation; and 2) after Plaintiff was on disability, delayed her return to work according to her medically supported accommodations.

Plaintiff plead she is a member of a protected class, but the SAC does not sufficiently link what is ostensibly a reasonable exercise of authority to engage in ordinary management decisions (whether to promote an employee or not) and the conclusion that the denial of this promotion was based upon Plaintiff's membership in a protected class. The non-specific statement that Plaintiff "was not ready" for the promotion is not sufficient to indicate it was

based on her membership in a protected class or any information supporting the conclusory statement at heart of the claims. While California is a notice pleading state and Plaintiff need not plead evidentiary facts, there needs to be enough to connect the events to the claim.

Similarly, the claim that the challenges faced in returning to work after a medical disability leave in 2023 remains devoid of factual allegations to support the conclusion that this created a hostile work environment or that she was subjected to harassing conduct. Plaintiff avers that between September 2023, when she received approval to return to work from leave, with accommodations as noted, through December 31, 2023, that she faced impediments in doing so. (SAC ¶¶9-11.) However, there is no indication that these delays are in any way connected, as she alleges, to her membership in a protected class. The SAC stops short of making this allegation. Instead, Plaintiff alleges, "(t)here is cause to believe that the harassment of not allowing Plaintiff to come back to work was due to the discrimination she received when not being considered or offered the promotion and the conversations with management that followed." (SAC ¶16.)

In *Cornell v. Berkeley Tennis Club* (2017) 18 Cal.App.5th 908, the court of appeal held that the employee satisfied her burden to demonstrate a triable issue of material fact as to whether the harassment as sufficiently severe or pervasive, based on the supervisor's actions in combination with his comments communicating an offensive weight-based message. (*Cornell*, 18 Cal.App.5th at 941.) The claims included requiring the employee to wear a supplied uniform shirt, but then ordering a shirt at least five sizes too small, despite being aware of her sizing needs, then reporting this as the employee being unwilling to follow uniform directives to the higher ups. The manager asked the employee if she had considered weight loss surgery, and instructed kitchen staff not to give her extra food "because 'she doesn't need it' and once told her that she did not 'need to eat that.'" (*Id*. at 940.) As such, the actions taken were more than occasional, isolated, sporadic, or trivial, and were of a more routine and generalized nature. (*Lyle v. Warner Brothers Television Prod*. (2006) 38 Cal. 4th 264, 283.) Here, that nexus is harder to parse from the complaint. The events specifically listed are the failure to follow internal procedures in announcing an internal opportunity, hiring a less experienced, younger Caucasian employee, and telling Plaintiff without further explanation that she was 'not ready' for the position desired. Plaintiff notes in the Third cause

of action in the SAC, paragraph 30, that she "did not encounter routine managerial conduct" in being denied the promotion, but rather no explanation why the opportunity was not properly announced and posted denying her a fair chance to apply. And though the Plaintiff states she was "repeatedly harassed" (SAC ¶ 31) when she attempted to return from disability with accommodations, she does not state what leads to that conclusion. As a result, the demurrer is sustained with leave to amend.

CU-24-00195 Kraig Klauer Family Limited Partnership vs. Valles & Associates, LLC, et al.

As to Plaintiff's pursuit of financial information of individuals, the court denies Plaintiff's motion to compel further response, affidavits and documents from the deponents. To the extent that Plaintiff is attempting to utilize the subpoenas to produce the documents that are covered by the regulatory privileges as referenced in the Code of Federal Regulations, with regard to documents provided to federal regulators, the OCC, and/or the California Department of Financial Protection and Innovation, such requests would require Plaintiff assert why these privileges have been overcome, this has not occurred. The motion to compel this regulatory information is therefore denied.

The court grants the requests for judicial notice.

Plaintiff seeks orders to compel the custodian of records for Heritage Bank of Commerce ("Bank") to comply with Plaintiff's subpoena for business records ("Subpoena"). Plaintiff claims the bank has not produced all documents responsive to the Subpoena and refuses to comply further. This motion follows. Plaintiff seeks full compliance with its Subpoena and monetary sanction of $8,160.00. The motion is made pursuant to CCP§§1987.1, 1987.2, 1992, 2020.010, et seq., 202.010 et seq.

Plaintiff's Motion to Compel directed to West Coast Community Bank (FKA Santa Cruz County Bank) seeks compliance with the deposition subpoena and imposition of monetary sanction of $6,960.00 for the reasons as recited in the motion directed to Heritage Bank of Commerce.

In each instance, Plaintiff broadly seeks documents referring, relating to, or evidencing deeds of trust, assignments of rents, the real properties subject to the foregoing, indebtedness

or loans subject to said deeds of trust and assignment of rents, application for financing related to aid deeds of trusts or assignments of rents, documents Bank received or sent from any person related to real property subject to the Deeds of trust/Assignment of rents, or which Bank received from or sent to any person related to Valles & Assoc, LLC.

A party may obtain discovery from a non-party by deposition subpoena for the production of business records. (Cal. Code of Civ. Proc. §2020.010, et seq; §2020.410, et seq.) Depositions include discovery conducted by way of business records subpoena. (*Unzipped Apparel, LLC. v. Bader* (2007) 156 Cal. App. 4th 123, 131.) Records shall be accompanied by the affidavit of the custodian of records, or other qualified witness framing in substance that they are the authorized custodian of records, or are otherwise qualified to certify the records, and that a true and correct copy of the records described were submitted to the attorney, and that those records were prepared in the ordinary course of business at or near the time of the act, event, or condition, identifying the records, and the manner in which the records were prepared, or if they have none of the records described or only part of the records described, the custodian of records will state so in the affidavit. (Ev. Code §1561.) When a deponent fails to produce any document, or electronically stored information, or tangible thing under the deponent's control that is specified in the deposition subpoena, then the requesting party may move to compel the answers or production. (Cal. Code of Civ. Proc. §2025.480 sub.(a).) When the subpoena "requires the production of books, documents, electronically stored information and things. . .at the taking of a deposition , the court, upon the motion reasonably made by any person described in subdivision (b) {including a party], or upon the court's own motion after giving counsel notice and an opportunity to be heard, may make an order quashing the subpoena entirely, modifying it, or directing compliance with it upon those terms or conditions as the court shall declare, including protective orders. . . ."

To the extent that the motion seeks to obtain the personal financial information of individuals, the court notes that the opposition is correct in that any individual whose personal records are the subject of the subpoena must be served with a special statutory notice before the date of production specified in the subpoena. (Cal. Code of Civ. Proc. §1985.3.) Personal records is defined as "the original, any copy of books, documents, other writings, or electronically stored information pertaining to a consumer and which are maintained by any

'witness' which is a. . . .state or national bank. . . ." (Cal. Code of Civ. Proc. §1985.3 sub (a)(1).) Further, a consumer is defined as "any individual. . . ." (Cal. Code of Civ. Proc. §1985.3 sub (a)(2).) Thus, to the extent that Plaintiff argues that third parties to this action have failed to provide them with records which include or are the personal financial records of any individual, Plaintiff must comply with Code of Civil Procedure §1985.3. Plaintiff argues, in essence, that the corporate entities listed are mere instrumentalities of the individuals named and the mandatory notice to consumers can be dispensed. The Court disagrees. Neither the third parties required to respond to the subpoenas nor the court can presume at this stage of the litigation that such alter ego status exists. If Plaintiff seeks the personal financial information of any individual involved in this matter they must comply with the requirements of the Code of Civil Procedure mandating proper notice to consumers. To do as Plaintiff suggests in their motion to compel would functionally pierce the corporate veil and allow access to the personal financial information of individuals operating the corporation. Moreover, any entity or person whose information is sought in a deposition subpoena directed to a third party must be identified in the subpoena. In both motions pending before the court no individuals are identified in Attachment 3 to the subpoenas. The only entity identified is Valles Associates, LLC.

Here, the subpoenas are specific that they are seeking the information regarding specific transactions and documents for Valles Associates, LLC. If Plaintiff is seeking the personal financial information of individuals or other entities, they must state in their attachment to the subpoena and they must follow the mandates of the Code of Civil Procedure as to notice to consumer if an individual's personal financial information is sought. That has not been done here.

The second argument raised by Commerce Heritage Bank, which applies to both Commerce Heritage Bank and West Coast Community Bank, is that Plaintiff's attempt to obtain regulatory information is barred by law. Heritage Bank notes that pursuant to meet and confer with Plaintiff's counsel, and the submission by Plaintiff of documents from a federal regulatory agency, the Office of the Comptroller of Currency (OCC), it appears that Plaintiff seeks regulatory materials. This is confirmed by the repeated reference in the separate statements to the OCC. 31 USC § 5318(g)(2), referenced by Heritage Bank, prohibits it from

producing, confirming or denying the existence of certain regulatory materials. Similarly, the requestor appears to be seeking information that would be protected by the bank examiner's privilege which Heritage Bank and West Coast Community Bank cannot produce. The third party financial institutions cite to a Sixth District case, *In re Banker's Trust Co*., 61 F.3d 465, for the proposition that they are statutorily barred from producing any reports of examination or inspection, or documents prepared by or on behalf of , or for use of the bank examiners. (12 CFR §261.2(b)). However, as *In re Banker's Trust Co*. notes, the regulations provide that all such information "is and shall always remain 'the property of the Board.' (12 CFR §261.11(g).)" (*Id*. at 467.) Further, the regulations also provide procedures to gain access to confidential supervisory information. Pursuant to 12 CFR Section 261.13 (b), a person seeking access shall file a written request with the general counsel of the Board of Governors of the Federal Reserve System. (*In re Bankers Trust Co*. (6th Cir. 1995) 61 F.3d 465, 467.) The General counsel may then approve the request if: 1) the person making the request has shown a substantial need for confidential supervisory information that outweighs the need to maintain confidentiality; and 2) disclosure is consistent with the supervisory and regulatory responsibilities and policies of the Board. (*Ibid*., 12 CFR §261.13 (c).) The case notes further that making a request and the denial thereof is deemed to be exhaustion of administrative remedies for discovery purposes in any civil proceeding. (*Ibid*., 12 CFR §261.13(d).)

When a party has exhausted such remedies without success, they may then file against the Federal Reserve either a Freedom of Information Act (FOIA) action or, as in the case of In re Banker's Trust Co, a subpoena pursuant to Rule 45 of the Federal Rules of Civil Procedure. (*In re Bankers Trust Co*., 61 F.3d at 467.) But under these regulations a party may not, absent the board's approval or permission, seek the documents from some other party without the Board's approval or permission. Under this framework any person or organization that has documents which may not be disclosed under these regulations that has been served with "subpoena, order, or other judicial process. . .requiring the production of documents or information" is to directly and promptly advise the Board's general counsel of such requests and must "continually 'decline to disclose the information. . . .'" (*Ibid*., citing 12 CFR §261.14.) The tension here, as in Banker's Trust, rests on the Federal Rules of Civil

Procedure, echoed in the California Code of Civil Procedure, and the regulations which prohibit disclosure.

"Without OCC approval, no person [or entity] . . .may disclose [non-public OCC] information. . .except: (A) After the requester has sought the information from the OCC. . .; and (B) as ordered by a Federal court in a judicial proceeding in which the OCC has had the opportunity to appear and oppose discovery" (12 CFR §4.37(b)(1).) Here, the documents which Plaintiff seeks fall within the federal regulatory materials provided under privilege to the regulators, or as materials provided to the OCC in a non-public, thus privileged manner. If the third-party institution were to disclose these materials, then they would be in violation of the relevant regulation, 12 CFR §4.37(b)(1); and "subject to the penalties provided in 18 USC 641." Here the regulatory disclosures sought from the third party bank regarding the actions of a separate and distinct entity, the connection needed in the analytical frame work here is absent and the nexus between the need for regulatory information transmitted by a third party institution to the OCC and to the Federal Reserve Board and the conduct of the Defendant Valles Associates, LLC alleged in the complaint, is tenuous at best.

CU-24-00297 Jacquez vs. Daneco Electric Inc.

In light of the mediation scheduled to take place on November 6, 2025, the Case Management Conference is continued to November 17, 2025 at 10:30 a.m.

CU-24-00323 County of San Benito vs. Low, et al.

The Court has read and considered the parties' Case Management Statements. Based on the request by Defendants, the Court continues the Case Management Conference to January 26, 2026, at 10:30 a.m.

CU-25-00074 In the matter of Michele Tortorelli

The Petition is DENIED due to Petitioner's failure to submit proof of publication.

PR-22-00108 Conservatorship of: Steven E. Breneman

The Order to Show Cause is dismissed. The Petition hearing shall remain on calendar.

PR-25-00044 In the Matter of Sandra Davidson

The Petition is APPROVED as requested.

PR-25-00047 In the Matter of Elias Garcia

The application is GRANTED as requested. No appearances are necessary.

PR-25-00049 In the Matter of Theresa M. Bonifacino

The Petition is APPROVED as requested. Petitioner shall resubmit a proposed order that contains a legible Attachment 5a.

PR-25-00050 In the Matter of Mark Vorobik

The Petition is APPROVED as requested.

PR-25-00052 In the Matter of Sixta Martinez Munoz

The Petition is APPROVED as requested. Jose L. Munoz is appointed as executor of the decedent's will. Bond is waived. Lucia Areias is appointed as referee. Full authority is granted to administer the estate under the Independent Administration of Estates Act. Petitioner is to file an Inventory and Appraisal within four months of issuance of letters (Prob. Code section 8800(b)) and either a petition for an order for final distribution of the estate or a report of status of administration within the timeframe set out in Probate Code section 12200.

The matter is set for hearing on January 26, 2026, at 10:30 a.m. for status of estate or final account and distribution. No appearances at the hearing will be required if the court determines that administration of the estate is timely proceeding, or good cause is shown why more time is required.

PR-25-00054 In the Matter of Llaneth Garcia Chavez

The Petition is APPROVED as requested. Bond is waived. Lucia Areias is appointed as referee. Full authority is granted to administer the estate under the Independent Administration of Estates Act. Petitioner is to file an Inventory and Appraisal within four months of issuance of letters (Prob. Code section 8800(b)) and either a petition for an order

for final distribution of the estate or a report of status of administration within the timeframe set out in Probate Code section 12200.

The matter is set for hearing on January 26, 2026 at 10:30 a.m. for status of estate or final account and distribution. No appearances at the hearing will be required if the court determines that administration of the estate is timely proceeding, or good cause is shown why more time is required.

END OF TENTATIVE DECISIONS

****Please contact Judicial Courtroom Assistant, Lesley Pace, at (831) 636-4057 x127 or lpace@sanbenitocourt.org with any objections or concerns.**