

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED**

2260 N Street, Merced
627 W. 21st Street, Merced
1159 G Street, Los Banos

Tuesday, February 4, 2025

NOTE: Merced Superior Court will no longer be consolidating Courtroom 8 and Courtroom 10.

Tentative Rulings are provided for the following Courtrooms and assigned Judicial Officers with scheduled civil calendars:

Courtroom 8 – Hon. Stephanie Jamieson

Courtroom 9 – Commissioner David Foster

Courtroom 12 – Hon. Jennifer O. Trimble

Courtroom 10 will continue to post separate Probate Notes that are not included in these tentative rulings.

IMPORTANT: Court Reporters will NOT be provided; parties must make their own arrangements. Electronic recording is available in certain courtrooms and will only be activated upon request.

The specific tentative rulings for specific calendars follow:

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED
Unlimited Civil Law and Motion
Hon. Stephanie Jamieson
Courtroom 8
627 W. 21st Street, Merced

Tuesday, February 4, 2025
8:15 a.m.

The following tentative rulings shall become the ruling of the court unless a party gives notice of intention to appear as follows:

1. You must call (209) 725-4111 ext. 2 to notify the court of your intent to appear.
2. You must give notice to all other parties before 4:00 p.m. of your intent to appear.

Per California Rules of Court, rule 3.1308(a)(1), failure to do both items 1 and 2 will result in no oral argument. *Note:* Notifying Court Call (the court's telephonic appearance provider) of your intent to appear does not satisfy the requirement of notifying the court.

IMPORTANT: Court Reporters will NOT be provided; parties wanting a hearing transcript must make their own arrangements.

Case No.	Title / Description
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20CV-03387	People v. \$1,108,400 U.S. Currency
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Status Conference

Appearance required. Parties who wish to appear remotely must contact the clerk of the court at (209) 725-4111 to seek permission and arrange for a remote appearance. Appear to address the status of the criminal case this matter is trailing.

24CV-00770	Janet Ruscoe v. Dignity Health, et al.
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Demurrer to Plaintiff's Third Amended Complaint

Defendants' demurrers to the first cause of action of the third amended complaint, alleging a violation of Labor Code section 1102.5, the fourth cause of action for a violation of Labor Code section 6310, and the seventh cause of action for adverse action in violation of public policy are SUSTAINED WITHOUT LEAVE TO AMEND.

Labor Code § 1102.5: To state a claim under Labor Code § 1102.5, Plaintiff must plead that she engaged in a protected activity by disclosing a reasonable belief of a violation of state or federal statute, rule or regulation. (See Labor Code 1102.5(b). Discussion of internal operational and personnel concerns and differences of opinion are insufficient

as a matter of law to constitute protected activity. (*Manavian v. Department of Justice* (2018) 28 Cal.App.5th 1127, 1142-1143. [*“Manavian”*]). A disagreement between employees over proper protocol is a “routine internal personnel disclosure” not encompassed by section 1102.5.” (*Carter v. Escondido Union High School Dist.* (2007) 148 Cal.App.4th 922, 933-934 [*“Carter”*].)

In sustaining the demurrer to the Second Amended Complaint and granting leave to amend, this Court expressly stated: “While Plaintiff has provided extensive allegations concerning events that occurred in the State (*sic*) of Facts portions of the complaint, there is no designation of which, if any, especially the facts alleging potential protected activity, relate to the First, Fourth, and Seventh Causes of Action.” The third amended complaint’s first cause of action again does not specify any specific event or complaint as constituting a protected activity supporting a Labor Code section 1102.5 cause of action, but instead alleges unspecified “numerous complaints” as having all constituted protected activity.

Having reviewed the statement of facts and the various allegations contained therein, the court finds that none of the allegations of events or complaints constitute protected activity under the *Manavian* standard. Rather, each of the allegations that could theoretically form the basis of a claim under Labor Code section 1102.5 does not amount to protected activity. Instead, these allegations consist of discussions of internal operational and personnel concerns, or “disagreement[s] between employees over a proper protocol [that] is a ‘routine internal personnel disclosure’ not encompassed by section 1102.5.” (See, *Carter, supra*.) As a result, the allegations contained in the statement of facts do not individually or collectively establish a violation of Labor Code section 1102.5, under the limitations of *Manavian, supra*, and *Carter, supra*.

Plaintiff’s opposition specifies particular allegations plaintiff believes are protected activities under *People ex rel. Garcia Bower v. Kolla’s Inc.* (2023) 14 Cal.5th 719, because liability is not limited to information previously unknown to the employer. (*Ibid.* at 722.) However, the court also “exclude[d] from whistleblower protection disclosures that involve only disagreements over discretionary decisions, policy choices, interpersonal dynamics, or other nonactionable items.” (*Id.* at 734.) And while the court there held that a report of illegal action may be protected, the third amended complaint does not actually allege that plaintiff told Mr. Johns or anyone with authority to correct such illegality that a legal violation had been committed in the workplace. (*Id.* at 726.) Plaintiff’s belief, even if reasonable, at the time of workplace discussions that certain conduct was unlawful is insufficient to form the basis for a section 1102.5 cause of action if that allegation was not actually disclosed prior to the filing of the complaint. (See, e.g. *Manavian, supra*, 28 Cal.App.5th at 1145 (not every thought, suggestion, or discussion of an action that may be a law violation is justification for a whistleblower complaint).)

Accordingly, the demurrer to the first cause of action for violation of Labor Code section 1102.5 is SUSTAINED WITHOUT LEAVE TO AMEND. The court finds that leave to amend would be futile, in light of prior demurrers and absent an offer of proof of specific facts that could be plead in an amended complaint to establish this cause of action.

Labor Code § 6310: Labor Code section 6310, subdivision (b) prohibits employers from retaliating against employees who have made a “bona fide oral or written complaint to their employer about unsafe work conditions or work practices in their place of employment. (Labor Code § 6310, subd. (b); *Sheridan v. Touchstone Television*

Productions, LLC (2015) 241 Cal.App.4th 508, 512.) As with the first cause of action, the allegations contained in the third amended complaint fail to establish that any complaint addressing workplace or employee safety was made by plaintiff. Plaintiff fails to allege that there was any unsafe working condition or a complaint about an unsafe working condition.

Accordingly, the demurrer to the fourth cause of action for violation of Labor Code section 6310 is SUSTAINED WITHOUT LEAVE TO AMEND. The court finds that leave to amend would be futile, in light of prior demurrers and absent an offer of proof of specific facts that could be plead in an amended complaint to establish this cause of action.

Adverse Action in Violation of Public Policy: The elements of an action for termination (or adverse employment action) in violation of public policy are (1) an employment relationship, (2) the employer terminated the employment or took an adverse employment action, (3) the adverse employment action was substantially motivated by a violation of public policy, and (4) the discharge or adverse action caused the plaintiff harm. (See e.g. *Yau v. Santa Margarita Ford, Inc.* (2014) 229 Cal.App.4th 144,154. The public policy must be embodied in a statute or constitutional provision. (*Turner v. Anheuser-Busch, Inc.* 7 Cal.4th 1238, 1256.) Here, the primary public policies alleged to have been violated are those set forth in Labor Code § 1102.5 and Labor Code § 6310 and in Labor Code §§ 6400, 6401, 6402, 6403, and 6404. As discussed above, every protected activity alleged in the complaint fails to meet the requirements of either Labor Code § 1102.5 or Labor Code § 6310 and therefore fails to establish a common law claim for Adverse Action in Violation of Public Policy. (See *McVeigh v. Recology San Francisco* (2013) 213 Cal.App.4th 443, 472.)

Accordingly, the demurrer to the seventh cause of action for adverse employment action in violation of public policy is SUSTAINED WITHOUT LEAVE TO AMEND. The court finds that leave to amend would be futile, in light of prior demurrers and absent an offer of proof of specific facts that could be plead in an amended complaint to establish this cause of action.

Motion to Strike Portions of Plaintiff's Third Amended Complaint

Defendants' motion to strike allegations in the third amended complaint that involve Dr. Shuller is DENIED. As to the first, fourth, and seventh causes of action, the motion is moot in light of the court's above tentative ruling, sustaining without leave to amend the demurrers to these allegations. Furthermore, paragraphs 49 and 50 of the third amended complaint contain judicial admissions establishing a report to Dr. Shuller, but no other agency except the DFEH. While defendants are correct to assert that Dr. Shuller's personal opinions about administrative actions or legal obligations are not admissible to establish what the law permits, or to prove best practices, these opinions are admissible for the limited purpose of establishing whether plaintiff's subjective beliefs regarding the allegations in the complaint are reasonable.

24CV-01323

Jain Farm Fresh Foods, Inc. v, Eat Just, Inc.

Motion to Compel Arbitration and Stay Action Pending Arbitration

The motion to compel arbitration and stay this action pending arbitration is GRANTED. This matter is STAYED pending the outcome of arbitration.

The parties do not dispute that the terms of the purchase order containing the arbitration provision control the underlying contract claim. This court finds that the right to compel arbitration has not been waived. To the extent there is conduct that could be construed as a waiver, there has been no prejudice. (*St. Agnes Med. Ctr. v. PacificCare of Cal.* (2003) 31 Cal.4th 1187, 12032.) The case management conference set for April 21, 2025, is vacated and a status conference is set for Monday, September 8, 2025, at 10:00 a.m. in Courtroom 8.

24CV-05578

Petition of: Evelyn Soto-Alfaro

Order to Show Cause re: Name Change

Appearance required. Parties who wish to appear remotely must contact the clerk of the court at (209) 725-4111 to seek permission and arrange for a remote appearance. No proof of publication has been filed.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

Jury Trials and Long Cause Court Trials
Hon. Stephanie Jamieson
Courtroom 8
627 W. 21st Street, Merced

Tuesday, February 4, 2025
9:00 a.m.

The following tentative rulings shall become the ruling of the court unless a party gives notice of intention to appear as follows:

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2. You must give notice to all other parties before 4:00 p.m. of your intent to appear.

Per California Rules of Court, rule 3.1308(a)(1), failure to do both items 1 and 2 will result in no oral argument. *Note:* Notifying Court Call (the court's telephonic appearance provider) of your intent to appear does not satisfy the requirement of notifying the court.

IMPORTANT: Court Reporters will NOT be provided; parties wanting a hearing transcript must make their own arrangements.

Case No.	Title / Description
23CV-00538	City of Merced v. Viraaj Investments, LLC, et al.
Court Trial	
Appearance required. Parties who wish to appear remotely must contact the clerk of the court at (209) 725-4111 to seek permission and arrange for a remote appearance.	

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

Ex Parte Matters
Hon. Stephanie Jamieson
Courtroom 8
627 W. 21st Street, Merced

Tuesday, February 4, 2025
1:15 p.m.

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IMPORTANT: Court Reporters will NOT be provided; parties wanting a hearing transcript must make their own arrangements.

Case No.	Title / Description
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There are no Ex Parte matters scheduled.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

Ex Parte Matters
Commissioner David Foster
Courtroom 9
627 W. 21st Street, Merced

Tuesday, February 4, 2025
1:15 p.m.

The following tentative rulings shall become the ruling of the court unless a party gives notice of intention to appear as follows:

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IMPORTANT: Court Reporters will NOT be provided; parties wanting a hearing transcript must make their own arrangements.

Case No.	Title / Description
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There are no Ex Parte matters scheduled	
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SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

Ex Parte Matters
Hon. Jennifer O. Trimble
Courtroom 12
1159 G Street, Los Banos

Tuesday, February 4, 2025
1:15 p.m.

The following tentative rulings shall become the ruling of the court unless a party gives notice of intention to appear as follows:

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IMPORTANT: Court Reporters will NOT be provided; parties wanting a hearing transcript must make their own arrangements.

Case No.	Title / Description
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There are no Ex Parte matters scheduled.	
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SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

Civil Law and Motion
Hon. Jennifer O. Trimble
Courtroom 12
1159 G Street, Los Banos

Tuesday, February 4, 2025
1:30 p.m.

The following tentative rulings shall become the ruling of the court unless a party gives notice of intention to appear as follows:

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2. You must give notice to all other parties before 4:00 p.m. of your intent to appear.

Per California Rules of Court, rule 3.1308(a)(1), failure to do both items 1 and 2 will result in no oral argument. *Note:* Notifying Court Call (the court's telephonic appearance provider) of your intent to appear does not satisfy the requirement of notifying the court.

IMPORTANT: Court Reporters will NOT be provided; parties wanting a hearing transcript must make their own arrangements.

Case No.	Title / Description
23CV-03479	Diana Contreras Rodriguez v. LE homes, Pablo Ledesma Demurrer by Defendant LE Homes and Defendant Pabloe Ledesma that the First Cause of Action for Breach of Contract, Second Cause of Action for Promissory Estoppel, and Third Causes of Action for Fraud fail to state a cause of action and are uncertain. The unopposed Demurrer to the First, Second and Third Causes of Action on the grounds of failure to state a cause of action and uncertainty are SUSTAINED WITH LEAVE TO AMEND.
24CV-00190	JP Morgan Chase Bank N.A. v. Karina Magana Plaintiff's Motion for Judgment on the Pleadings Plaintiff's unopposed Motion for Judgment on the Pleadings is GRANTED. While Defendant filed a General Denial on February 22, 2024 and asserted various affirmative defenses therein, a Motion for Order Deeming Requests for Admission to be Admitted was Granted on August 20, 2024 with the result that Defendant is deemed to have admitted that (1)Plaintiff had a credit card account XXX-3024 with Plaintiff JP Morgan Chase, (2) Defendant received periodic statements regarding account 3024, (3) As of

January 17, 2024, Defendant owed \$9,353.05, (4) No payments were made, and (5) the last payment made on account 3024 was made within three years prior to January 17, 2024. Accordingly Plaintiff is entitled to Judgment as a Matter of Law and the Motion for Judgment on the Pleadings is GRANTED.

25CV-00342

Alan Santos v. Jose Smyth Robles

Further Proceedings regarding Fee Waiver

Appearance required. Parties who wish to appear remotely must contact the clerk of the court at (209) 725-4111 to seek permission and arrange for a remote appearance.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

Civil Unlawful Detainers
Hon. Jennifer O. Trimble
Courtroom 12
1159 G Street, Los Banos

Tuesday, February 4, 2025
2:00 p.m.

The following tentative rulings shall become the ruling of the court unless a party gives notice of intention to appear as follows:

1. You must call (209) 725-4111 to notify the court of your intent to appear.
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IMPORTANT: Court Reporters will NOT be provided; parties wanting a hearing transcript must make their own arrangements.

Case No.	Title / Description
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24CV-05393	[Parties' names withheld pursuant to CCP § 1161.2(a)(1)]
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Unlawful Detainer Court Trial

Appearance required. Parties who wish to appear remotely must contact the clerk of the court at (209) 725-4111 to seek permission and arrange for a remote appearance.