

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED**

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

Wednesday, August 7, 2024

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 matters:

Courtroom 8 – Hon. Brian L. McCabe

Courtroom 9 – Hon. Mason Brawley

Courtroom 10- Hon. Donald J. Proietti

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. Brian L. McCabe
Courtroom 8
627 W. 21st Street, Merced

Wednesday, August 7, 2024
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 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 |
|------------|--|
| 19CV-03971 | S.C. Anderson, Inc. v. Golden State Construction and Framing, Inc. et al. Motion for Leave to File First Amended Complaint The Motion for Leave to File the First Amended Complaint attached as Exhibit A to the Declaration of Lindsay L. Volle filed July 9, 2024, is GRANTED. Trial is currently set for October 7, 2025, which is well within the running of the five year statute because it was not feasible to conduct civil jury trials in Merced during the 850 days that COVID restrictions were in effect. |
| 23CV-02375 | Janet Madrid v. Scott Corr Order to Show Cause re: Renewed Restraining Order Appearance required. Remote appearances are permitted. Parties who wish to appear remotely must contact the clerk of the court at (209) 725-4111 to arrange for a remote appearance. The Court notes that there is no proof of service that the notice of renewed restraining order was served on Respondent. |

Amended Motion by Defendants Merced City Tow Service Inc. and Ramiro Juan Sanchez to Compel Plaintiff Joel Gutierrez, Minor, By and Through his Guardian Ad Litem Dioselina Parra-Lopez to Provide Responses to Request for Production (Set One) and Request for Monetary Sanctions of \$1,620.00.

The unopposed Amended Motion by Defendants Merced City Tow Service Inc. and Ramiro Juan Sanchez to Compel Plaintiff Joel Gutierrez, Minor, By and Through his Guardian Ad Litem Dioselina Parra-Lopez to Provide Responses to Request for Production (Set One) and Request for Monetary Sanctions of \$1,620.00 is GRANTED. Plaintiff, by and through his Guardian Ad Litem shall serve Verified Code Compliant Responses Without Objections to Moving Parties, serve copies of all responsive documents, and pay sanctions of \$1,620 by August 30, 2024.

Amended Motion by Defendants Merced City Tow Service Inc. and Ramiro Juan Sanchez to Compel Plaintiff Matthew Gutierrez, Minor, By and Through his Guardian Ad Litem Dioselina Parra-Lopez to Provide Responses to Request for Production (Set One) and Request for Monetary Sanctions of \$1,620.00.

The unopposed Amended Motion by Defendants Merced City Tow Service Inc. and Ramiro Juan Sanchez to Compel Plaintiff Matthew Gutierrez, Minor, By and Through his Guardian Ad Litem Dioselina Parra-Lopez to Provide Responses to Request for Production (Set One) and Request for Monetary Sanctions of \$1,620.00 is GRANTED. Plaintiff, by and through his Guardian Ad Litem shall serve Verified Code Compliant Responses Without Objections to Moving Parties, serve copies of all responsive documents, and pay sanctions of \$1,620 by August 30, 2024.

Amended Motion by Defendants Merced City Tow Service Inc. and Ramiro Juan Sanchez to Compel Plaintiff Dioselina Parra-Lopez to Provide Responses to Request for Production (Set One) and Request for Monetary Sanctions of \$1,620.00.

The unopposed Amended Motion by Defendants Merced City Tow Service Inc. and Ramiro Juan Sanchez to Compel Plaintiff Dioselina Parra-Lopez to Provide Responses to Request for Production (Set One) and Request for Monetary Sanctions of \$1,620.00 is GRANTED. Plaintiff shall serve Verified Code Compliant Responses Without Objections to Moving Parties, serve copies of all responsive documents, and pay sanctions of \$1,620 by August 30, 2024.

Amended Motion by Defendants Merced City Tow Service Inc. and Ramiro Juan Sanchez to Compel Plaintiff Joel Gutierrez, Minor, By and Through his Guardian Ad Litem Dioselina Parra-Lopez to Provide Responses to Form Interrogatories (Set One) and Special Interrogatories (Set One) and Request for Monetary Sanctions of \$1,620.00.

The unopposed Amended Motion by Defendants Merced City Tow Service Inc. and Ramiro Juan Sanchez to Compel Plaintiff Joel Gutierrez, Minor, By and Through his Guardian Ad Litem Dioselina Parra-Lopez to Provide Responses to Form Interrogatories (Set One) and Special Interrogatories (Set One) and Request for Monetary Sanctions of \$1,620.00 is GRANTED. Plaintiff, by and through his Guardian Ad Litem shall serve

Verified Code Compliant Responses Without Objections to Moving Parties, and pay sanctions of \$1,620 by August 30, 2024.

Amended Motion by Defendants Merced City Tow Service Inc. and Ramiro Juan Sanchez to Compel Plaintiff Matthew Gutierrez, Minor, By and Through his Guardian Ad Litem Dioselina Parra-Lopez to Provide Responses to Form Interrogatories (Set One) and Special Interrogatories (Set One) and Request for Monetary Sanctions of \$1,620.00.

The unopposed Amended Motion by Defendants Merced City Tow Service Inc. and Ramiro Juan Sanchez to Compel Plaintiff Matthew Gutierrez, Minor, By and Through his Guardian Ad Litem Dioselina Parra-Lopez to Provide Responses to Form Interrogatories (Set One) and Special Interrogatories (Set One) and Request for Monetary Sanctions of \$1,620.00 is GRANTED. Plaintiff, by and through his Guardian Ad Litem shall serve Verified Code Compliant Responses Without Objections to Moving Parties, and pay sanctions of \$1,620 by August 30, 2024.

Amended Motion by Defendants Merced City Tow Service Inc. and Ramiro Juan Sanchez to Compel Plaintiff Dioselina Parra-Lopez to Provide Responses to Request for Production (Set One) and Request for Monetary Sanctions of \$1,620.00.

The unopposed Amended Motion by Defendants Merced City Tow Service Inc. and Ramiro Juan Sanchez to Compel Plaintiff Dioselina Parra-Lopez to Provide Responses to Form Interrogatories (Set One) and Special Interrogatories (Set One) and Request for Monetary Sanctions of \$1,620.00 is GRANTED. Plaintiff shall serve Verified Code Compliant Responses Without Objections to Moving Parties, and pay sanctions of \$1,620 by August 30, 2024.

23CV-04678

Dessa Wylie v. Noel Espinoza, et al.

Motion By Defendant Spencer Gemperle to Compel Plaintiff's Response to Form Interrogatories, Special Interrogatories, and Requests for Production, Set One and for Monetary Sanctions of \$1,810.

The Motion By Defendant Spencer Gemperle to Compel Plaintiff's Response to Form Interrogatories, Special Interrogatories, and Requests for Production, Set One and for Monetary Sanctions of \$1,810 is GRANTED. The Fact that Plaintiff's Counsel has been unable to contact Plaintiff to obtain verified responses does not excuse Plaintiff from the duty to respond. The Court notes that Plaintiff's counsel has filed a Motion to be Relieved as Counsel with a hearing date set for August 27, 2024. Plaintiff Dessa Wylie is ordered to provide Verified Code Complaint response to Response to Form Interrogatories, Special Interrogatories, and Requests for Production, Set One, to serve copies of all responsive documents, and to pay sanctions of \$1,810 by September 30, 2024.

24CV-02510 PNC Bank v. DHL Trans, Inc., et al.

Application for Writ of Possession with respect to Gurdeep Dhaliwal aka Gurdeep Singh Dhaliwal

The unopposed Application for Writ of Possession with respect to Gurdeep Dhaliwal aka Gurdeep Singh Dhaliwal is GRANTED.

Application for Writ of Possession with respect to DHL Trans, Inc.

The unopposed Application for Writ of Possession with respect to DHL Trans Inc. is GRANTED.

24CV-03296 People v. Around \$10,000

Case Management Conference

Appearance required. Remote appearances are permitted. Parties who wish to appear remotely must contact the clerk of the court at (209) 725-4111 to arrange for a remote appearance. Appear to address the status the case.

24CV-03297 People v. Between \$30,000 and \$40,000, et al.

Case Management Conference

Appearance required. Remote appearances are permitted. Parties who wish to appear remotely must contact the clerk of the court at (209) 725-4111 to arrange for a remote appearance. Appear to address the status the case.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

Civil Law and Motion
Hon. Donald L. Proietti
Courtroom 10
627 W. 21st Street, Merced

Wednesday, August 7, 2024
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 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 |
|------------|---|
| 20CV-02493 | Animal Legal Defense Fund v. Foster Poultry Farms |

Discovery Motions:

1. Plaintiff's Motion to Compel Further Response to Request for Admissions, Set One
2. Plaintiff's Motion to Compel Further Responses to Request for Admissions, Set Two
3. Plaintiff's Motion to Compel Responses to Interrogatories Set One
4. Plaintiff's Motion to Compel Responses to Interrogatories Set Three
5. Plaintiff's Motion to Compel Further Responses to Supplemental Request for Production of Documents, Set Two
6. Plaintiff's Motion to Compel Further Responses to Set Request for Production of Documents Set 2
7. Plaintiff's Motion to Compel Further Responses to Request for Production of Documents, Set Five
8. Plaintiff's Motion to Compel Further Responses to Request for Production of Documents, Set Six

Discovery Propounded by Plaintiff Animal Legal Defense Fund to Real Party in Interest The City of Livingston.

Of the Eight Discovery Motions listed above, three relate to discovery propounded to Real Party in Interest The City of Livingston, not to Defendant Foster Poultry Farms. Those three motions are:

(Number 1 Above) The Motion to Compel Real Party In Interest City of Livingston to Provide Further Discovery Responses to Plaintiff's Request for Admission, Set One and Request for Monetary Sanctions in the Amount of \$1,405.05, filed June 21, 2024, seeking an order compelling Real Party in Interest City of Livingston to provide further responses to Request for Admission No. 8 [Admit that Foster Farms has asked for your assistance in defending itself in the matter, *Animal Legal Defense Funds v. Foster Poultry Farms*, Case No. 20-CV-02493 (Merced Superior Court)] and Request for Admission 9 [Admit that Foster Farms has offered to pay your costs and fees in this matter, *Animal Legal Defense Funds v. Foster Poultry Farms*, Case No. 20-CV-02493 (Merced Superior Court)].

(Number 3 Above) Plaintiff's Motion to Compel Real Party in Interest The City of Livingston to Provide Further Responses to Interrogatories Set One, and Request for Monetary Sanctions in the Amount of \$2,374.91 filed June 21, 2024 seeking an order compelling Real Party in Interest The City of Livingston to Provide Further Responses to Special Interrogatory No. 4 [Withdrawal of Disclaimer of Participation], No. 5 [Witnesses to Disclaimer of Participation], No. 9 [Lawsuit is invasive of private water-purchasing relationship], No. 10 [Documents showing knowledge of water use], No. 11 [Knowledge of Water Saving Measures], 13 [Knowledge of water use in each process of facility], 14 [volume of water used in each process], 17 [water usage 2017 to present], 22 [lawsuits in which Foster Farms and City were parties], 26 [basis for statement that City has received no complaints about Foster Farms water use], 28 [communications between Foster Farms 2014 to present],

(Number 5 Above) Plaintiff's Motion to Compel Real Party in Interest The City of Livingston to Provide Further Discovery Responses to Plaintiff's Second Request for Production of Documents and Request for Monetary Sanctions of \$4,902 filed June 21, 2024 seeking an order compelling Real Party in Interest The City of Livingston to provide further responses to Request for Production of Documents No. 1 [all documents relating to this litigation], 2 [management policies during past five years], 3 [document management policies], 6 [all communications concerning this action], 7 [all documents between City and Foster Farms relating to water use], 8 [Documents relating to Special Interrogatory 10], 9 [Documents relating to Special Interrogatory 11], 11 [Documents relating to Special Interrogatory 13], 13 [Documents relating to Special Interrogatory 17], 16 [Documents relating to Special Interrogatory 24], 17 [All Documents relied upon in responding to Special Interrogatories Set One], 18 [Documents Relied upon in preparing Declaration of Anthony Chavarria], 19 [Documents related to conclusion in Declaration of Anthony Chavarria Paragraph 3], 20 [Documents related to conclusion in Declaration of Anthony Chavarria Paragraph 5], 21 [Documents related to conclusion in Declaration of Anthony Chavarria Paragraph 7], 22 [Documents related to conclusion in Declaration of Anthony Chavarria Paragraph 8], 23 [Documents related to conclusion in Declaration of Anthony Chavarria Paragraph 9], 24 [Documents related to conclusion in Declaration of Anthony Chavarria Paragraph 10], 25 [Documents related to conclusion in Declaration of Anthony Chavarria Paragraph 11], 26 [Documents related to conclusion in Declaration of Anthony Chavarria Paragraph 12], 27 [Documents related to conclusion in Declaration of Anthony Chavarria Paragraph 13], 28 [Documents related to conclusion in Declaration of Anthony Chavarria Paragraph 14], 29 [Documents related to conclusion in Declaration of Anthony Chavarria Paragraph 15], 30 [Documents related to conclusion in Declaration of Anthony Chavarria Paragraph 16], 31 [Documents relied upon in preparation of Declaration of

Christopher Lopez], and 32 [Documents related to conclusion in Declaration of Christopher Lopez Paragraph 3].

On July 19, 2024, Plaintiff Animal Legal Defense Fund filed Plaintiff's Notice of Narrowing of Issues in Plaintiff's Motions to Compel Further Discovery Responses from Real Party in Interest The City of Livingston. That document states that of the three motions filed only the remaining requests remain at issue: Requests for Production of Documents Nos. 6, 7, 30, 31, 32; and Special Interrogatory 28. The document does not indicate that any of the Requests for Admission remain at issue.

The only Document filed in Response to the Three Motions by Plaintiff Animal Legal Defense Fund seeking to compel Real Party in Interest The City of Livingston to provide further responses to discovery is a document filed July 23, 2024 entitled City of Livingston's Opposition to Animal Legal Defense's Notice of Real Party In Interest's Non-Opposition to Plaintiff's Motions to compel Further Discovery Responses and for Monetary Sanctions of \$2,374.91. While the Caption of the Document refers to sanctions of \$2,374.91, that in fact is the amount of sanctions requested in connection with the Motion to Compel Interrogatory Responses. There was an additional \$1,405.05 requested in connection with Requests for Admissions and additional \$4,902 requested in connection with Requests for Production of Documents.

The July 23, 2024 opposition filed by Real Party in Interest The City of Livingston asserts that the City should not be required to respond to discovery at all and should be dismissed from the action. All objections to the propounding of discovery of any kind to Real Party in Interest The City of Livingston are OVERRULED based on the following analysis:

The City of Livingston is identified in the caption of the Complaint filed September 2, 2020. The following allegations of the complaint identify the parties to the action:

"1. Defendant Foster Poultry Farms (Foster Farms) operates a chicken slaughterhouse in Livingston, California. The slaughterhouse consumes three to four million gallons of drinkable water each day—more than all other water users in the City of Livingston combined—to slaughter and process chickens to sell for meat.

2. The millions of gallons of water that Foster Farms consumes each day is sourced from the critically overdrafted Merced Subbasin. Foster Farms procures the water from the City of Livingston, Real Party in Interest, which extracts it as groundwater.

9. Defendant Foster Farms is a California corporation based in Livingston, California. It is in the business of slaughtering chickens and other birds to sell for meat. Foster Farms operates a chicken slaughterhouse (and other processing facilities) located at 843 Davis Street in Livingston. Foster Farms is Livingston's largest water customer, buying and consuming more than sixty percent of the water that Livingston sells. Foster Farms is obligated to make only reasonable beneficial use of water under article X, section 2 of the California Constitution.

10. Real Party in Interest the City of Livingston—a city of more than fourteen thousand people in Merced County, California—lies in the San Joaquin Valley.

Livingston is the main water purveyor within the city limits. It extracts groundwater from the critically overdrafted Merced Subbasin, treats it, and sells it to Foster Farms.”

(Complaint Filed September 2, 2020 Page 1:2-9; Page 2:21-3:2.)

The Prayer to the Complaint includes the following requests for relief:

WHEREFORE, ALDF respectfully requests that this Court:

- 1. Declare that Foster Farms’ daily consumption of millions of gallons of groundwater from the critically overdrafted Merced Subbasin is unreasonable in violation of article X, section 2 of the California Constitution.**
- 2. Declare that Foster Farms’ use of potable water from the critically overdrafted Merced Subbasin for electric immobilization of chickens is an unreasonable method of use in violation of article X, section 2 of the California Constitution.**
- 3. Issue an order enjoining Foster Farms’ unreasonable use and method of use of groundwater from the critically overdrafted Merced Subbasin for an unnecessarily water-intensive and cruel slaughtering method and requiring the maximal beneficial use of such groundwater.**

(Complaint Filed September 2, 2020 Page 18:14-26.)

On October 30, 2024, Real Party in Interest The City of Livingston filed a Notice of Disclaimer of Participation in the Lawsuit for Real Party in Interest The City of Livingston which stated:

PLEASE TAKE NOTICE that THE CITY OF LIVINGSTON, named as a Real Party in Interest (“Real Party”), either independently or through its counsel listed below, and in reliance on the allegations in the Complaint that Plaintiff is seeking no affirmative relief from Real Party, including costs and attorneys’ fees, hereby disclaims any interest in this litigation. Real Party submits to the jurisdiction of the Court and agrees to abide by any judgment rendered by this Court, and it does not intend to otherwise participate in this action.

(Notice of Disclaimer filed October 30, 2024 at Page 2:2-7.)

On March 15, 2024, the same day that Foster Farms filed its Motion for Summary Judgment, Real Party in Interest filed City of Livingston’s Withdrawal of Notice of Disclaimer of Participation which stated: “PLEASE TAKE NOTICE that the CITY OF LIVINGSTON (the “City”), named by Plaintiff, ANIMAL LEGAL DEFENSE FUND, as a Real Party in Interest in this action, hereby notifies the Court and all parties that it is withdrawing the Notice of Disclaimer of Participation that it filed on October 30, 2020. The City wishes to notify the Court and all parties that going forward it may participate in the instant litigation.”

(Notice of Withdrawal of Disclaimer filed March 15, 2024 at Page 2:2-6.)

This Court finds that Real Party In Interest City of Livingston is, and always was, a necessary party to this action, because any judgment imposing any of the relief requested, whether declaring or enjoining alleged unreasonable use, necessarily affects the right of Real Party In Interest City of Livingston to sell such water to Defendant Foster Poultry Farms because of any alleged unreasonable water use

and further impacts the right of Real Party In Interest City of Livingston to pump groundwater for purposes of any alleged unreasonable water use. Given the allegations that Defendant Foster Poultry Farms is alleged to be the largest customer of Real Party in Interest City of Livingston and given that Defendant Foster Poultry Farms is alleged to be purchasing 60% of the water sold by the City of Livingston, any judgment enjoining a significant amount of water used by Defendant Foster Poultry Farms pursuant to article X, section 2 of the California Constitution is likely to have a significant economic effect on Real Party in Interest City of Livingston.

This Court further finds that the preparation of Declarations in Support of a Motion for Summary Judgment while operating under an alleged Notice of Disclaimer of Participation in the Lawsuit constitutes a bad faith attempt to avoid discovery for which monetary sanctions are appropriate.

Request for Production 6 [all communications between you and Foster Farms concerning this action],

The objections by Real Party In Interest The City of Livingston on the grounds that Request for Production of Documents No. 6 is “impermissibly vague and ambiguous” that the request has been previously propounded, constitutes oppression, and “impermissibly compound, and vague” are **OVERRULED**. The term “all communications” is not vague or ambiguous, it means every communication meeting the criteria set forth in the request. To the extent information potentially subject to attorney-client privilege, work product doctrine, the official information privilege, or the deliberative process privilege was provided by Defendant Foster Poultry Farms to Real Party in Interest to Real Party in Interest The City of Livingston or was provided by Real Party in Interest to Foster Poultry Farms, such objections are **OVERRULED** as the communication of privileged or work product information to a third party constitutes a waiver of the privilege. Real Party in Interest is ordered to conduct a diligent search, to make reasonable inquiry, and to serve a verified supplemental response to Request for Production 6, without objections, along with copies of all responsive documents by August 30, 2024.

Request for Production 7 [all documents between City and Foster Farms relating to water use]

The objections by Real Party In Interest The City of Livingston on the grounds that Request for Production of Documents No. 7 is “impermissibly vague and ambiguous” that the request has been previously propounded, constitutes oppression, and “impermissibly compound, and vague” are **OVERRULED**. The term “all documents” is not vague or ambiguous, it means every document meeting the criteria set forth in the request. To the extent information potentially subject to attorney-client privilege, work product doctrine, the official information privilege, or the deliberative process privilege was provided by Defendant Foster Poultry Farms to Real Party in Interest to Real Party in Interest The City of Livingston or was provided by Real Party in Interest to Foster Poultry Farms, such objections are **OVERRULED** as the communication of privileged or work product information to a third party constitutes a waiver of the privilege. Real Party in Interest is ordered to conduct a diligent search, to make reasonable inquiry, and to serve a verified supplemental response to Request for Production 7, without objections, along with copies of all responsive documents by August 30, 2024.

Request for Production 30 [Documents related to conclusion in Declaration of Anthony Chavarria Paragraph 16],

The objections by Real Party In Interest The City of Livingston on the grounds that Request for Production of Documents No. 30 is “impermissibly vague and ambiguous” that the request has been previously propounded, constitutes oppression, and “impermissibly compound, and vague” are OVERRULED. To the extent information potentially subject to attorney-client privilege, work product doctrine, the official information privilege, or the deliberative process privilege was provided by Defendant Foster Poultry Farms to Real Party in Interest to Real Party in Interest The City of Livingston or was provided by Real Party in Interest to Foster Poultry Farms, or is disclosed in the text of the declaration, such objections are OVERRULED as the communication of privileged or work product information to a third party constitutes a waiver of the privilege. Real Party in Interest is ordered to conduct a diligent search, to make reasonable inquiry, and to serve, by August 30, 2024, a verified supplemental response to Request for Production 30, without objections other than to attorney-client privilege, work product doctrine, the official information privilege, or the deliberative process privilege, along with a privilege log describing with particularity each specific document for which a claim of privilege is made, accompanied by a declaration under penalty of perjury by a person having personal knowledge that the information contained in such document was never disclosed to any third party.

Request for Production 31 [Documents relied upon in preparation of Declaration of Christopher Lopez], and

The objections by Real Party In Interest The City of Livingston on the grounds that Request for Production of Documents No. 31 is “impermissibly vague and ambiguous” that the request has been previously propounded, constitutes oppression, and “impermissibly compound, and vague” are OVERRULED. To the extent information potentially subject to attorney-client privilege, work product doctrine, the official information privilege, or the deliberative process privilege was provided by Defendant Foster Poultry Farms to Real Party in Interest to Real Party in Interest The City of Livingston or was provided by Real Party in Interest to Foster Poultry Farms, or is disclosed in the text of the declaration, such objections are OVERRULED as the communication of privileged or work product information to a third party constitutes a waiver of the privilege. Real Party in Interest is ordered to conduct a diligent search, to make reasonable inquiry, and to serve, by August 30, 2024, a verified supplemental response to Request for Production 31, without objections other than to attorney-client privilege, work product doctrine, the official information privilege, or the deliberative process privilege, along with a privilege log describing with particularity each specific document for which a claim of privilege is made, accompanied by a declaration under penalty of perjury by a person having personal knowledge that the information contained in such document was never disclosed to any third party.

Request for Production 32 [Documents related to conclusion in Declaration of Christopher Lopez Paragraph 3].

The objections by Real Party In Interest The City of Livingston on the grounds that Request for Production of Documents No. 32 is “impermissibly vague and ambiguous” that the request has been previously propounded, constitutes oppression, and “impermissibly compound, and vague” are OVERRULED. To the extent information potentially subject to attorney-client privilege, work product

doctrine, the official information privilege, or the deliberative process privilege was provided by Defendant Foster Poultry Farms to Real Party in Interest to Real Party in Interest The City of Livingston or was provided by Real Party in Interest to Foster Poultry Farms, or is disclosed in the text of the declaration, such objections are **OVERRULED** as the communication of privileged or work product information to a third party constitutes a waiver of the privilege. Real Party in Interest is ordered to conduct a diligent search, to make reasonable inquiry, and to serve, by August 30, 2024, a verified supplemental response to Request for Production 32, without objections other than to attorney-client privilege, work product doctrine, the official information privilege, or the deliberative process privilege, along with a privilege log describing with particularity each specific document for which a claim of privilege is made, accompanied by a declaration under penalty of perjury by a person having personal knowledge that the information contained in such document was never disclosed to any third party.

As noted above, The Motion to Compel Real Party In Interest City of Livingston to Provide Further Discovery Responses to Plaintiff's Request for Admission, Set One also requested Monetary Sanctions in the Amount of \$1,405.05, though that motion was ultimately withdrawn. Plaintiff's Motion to Compel Real Party in Interest The City of Livingston to Provide Further Responses to Interrogatories Set One, also requested Monetary Sanctions in the Amount of \$2,374.91. Plaintiff's Motion to Compel Real Party in Interest The City of Livingston to Provide Further Discovery Responses to Plaintiff's Second Request for Production of Documents and Request for Monetary Sanctions of \$4,902. The total of the three sanctions requests is \$8,681.96, and even a casual review of the motion papers filed by Plaintiffs establishes that a significantly greater amount of attorney time was spent on efforts to obtain the discovery than was requested in the notice of motion. The Court is also concerned that the of Withdrawal of Disclaimer filed March 15, 2024 was strategically delayed until after the declarations supporting the motion for summary judgment were filed, a practice this court views, at the very least, as constituting bad faith. Since no relief other than monetary sanctions is requested, the Court **GRANTS** the three requests for monetary sanctions in the total amount of \$8,861.96 notwithstanding the ultimate withdrawal of the Motion to Compel the Requests for Admissions on the grounds that all three motions were necessary to obtain the responses eventually received. Sanctions are payable by August 30, 2024.

Discovery Propounded by Plaintiff Animal Legal Defense Fund to Defendant Foster Poultry Farms.

Of the Eight Discovery Motions listed above, five relate to discovery propounded to Defendant Foster Poultry Farms. Those five motions are:

(Number 2 Above) The Plaintiff's Motion to Compel Further Discovery Responses to Plaintiff's Request for Admissions, Set Two, and Request for Sanctions in the Amount of \$5,222.50 filed June 21, 2024 seeking to compel further responses to Request 31 [Admit that it is physically possible to convert to moisturized hot air scalding at the Livingston Facility], Request 32 [Admit that it is physically possible to convert to air chilling at the Livingston Facility], Request 35 [Admit that the gallons of water you use per chicken slaughtered is higher at the Livingston Facility than at your Cherry Slaughterhouse in Fresno, California], and Verifications to all Requests Propounded.

(Number 4 Above) The Plaintiff's Motion to Compel Further Discovery Responses to Plaintiff's Special Interrogatories, Set Three, and Request for Monetary Sanctions in the Amount of \$5,030 filed June 21, 2024 and seeking to compel further Responses to Interrogatories 26 [State the total number of chickens slaughtered annually at your Cherry Slaughterhouse in Fresno, California, since January 1, 2016], 27 [State the total number of chickens slaughtered annually at your Belgravia slaughterhouse in Fresno, California since January 1, 2016], 29 [Identify the reason that the City of Livingston filed its Withdrawal of Notice of Disclaimer of Participation in this matter], and 31[Explain how you use Foster000816-1916 and Foster0007631-7371].

(Number 6 Above) The Plaintiff's Motion to Compel Further Discovery Responses to Plaintiff's Supplemental Request for Production of Documents, Set Two, and Request for Monetary Sanctions of \$4,737.50 filed June 21, 2024 and seeking Supplemental Responses to Requests For Production Sets One (Requests 1-23), Set Two (Requests 1-8), Set Three (Requests 1-8), Set Four (Requests 1-94), Set Five (No Specific Requests Listed in Separate Statement) and Set Six (Requests 1-23).

(Number 7 Above) The Plaintiff's Motion to Compel Further Discovery Responses to Request for Production set Five and For Monetary Sanctions of \$6,747.50 filed June 21, 2024 seeking to compel further responses to Request 2 [Documents related to cost to convert from water immersion chilling to air chilling for Cherry Slaughterhouse in Fresno], 3 [Budgets for conversion to controlled atmosphere system at Livingston], 5 [plat maps related to surveys of land at Livingston site], 6 [surveys of Land at Livingston site], Request 9 [Documents related to number of chickens slaughtered at Cherry Slaughterhouse since January 1, 2016], 10 [Documents related to number of chickens slaughtered at Belgravia slaughterhouse since January 1, 2016], 11 [Documents related to water used annually at Cherry Slaughterhouse since January 1, 2022], 12 [Documents related to water used annually at Belgravia slaughterhouse in Fresno since January 1, 2022], 14 [documents related to pre-sorter tally counters in Livingston Facility since January 1, 2014], 15 [documents relating to claim that chicken products at Livingston are not specialty or premium products], 16 [Documents related to City of Livingston withdrawal of Disclaimer of Participation], 17 [[documents relating to conversations with City of Livingston regarding this matter], 18 [Documents related to payments of City of Livingston's costs or fees in this matter], 25 [Arrowsight alerts at Livingston Facility], 26 [documents related to Arrowsight reports at Livingston Facility], 27 [Documents related to incident with employee in shackling process], 28 [Documents related to backup killer at Livingston Facility], 29 [Documents related to job qualifications for Backup killers at Livingston], 32 [Documents related to mental health support for Backup Killers], 33 [Documents related to chickens Backup Killers had to manually cut or decapitate at Livingston], 34 [Documents related to length of shifts for Backup Killers], 35 [Documents related to Backup Killer job turnover], 26 [Documents related to emergency stops initiated by Backup Killers], 37 [Documents relating to environmental regulatory reporting requirements at Livingston], 38 [Environmental Reports], 40 [Documents relating to water conservation at any slaughterhouse], 41 [Documents relating to water conservation measures], 44 [Documents relating to reports of environmental management system], 45 [All data and analysis relied on building environmental management system], 46 [Documents relating to plan and purpose of environmental management system], 47 [Daily Water Reports related to wastewater projects], 52 [Documents relating to internal communications concerning standard operating procedures for slaughterhouses], 53 [Documents related to industry conferences], 54 [All advertisements and solicitations you received from industry publications], 55 [Documents and information provided by environmental consulting firms], 59 [All documents relating to water restrictions placed on Livingston facility], 60 [Documents relating to Merced Groundwater sustainability plan], 61 [Documents relied upon by Kevin

Keener in Motion for Summary Judgment], 62 [Documents relied upon by Mark Bryne in Motion for Summary Judgment], 63 [All communications with Anthony Chavarria], 64 [All communications with Christopher Lopez] , 65 [Communications with Kevin Keener], 66 [Agreements with Kevin Keener], 67 [Documents related to agreements with Kevin Keener], 68 [Documents provided to Kevin Keener], 69 [Documents provided to Kevin Keener after he was retained], 70 [Kevin Keener Billing Statements], 71 [Documents evidencing payment to Kevin Keener], 72 [Kevin Keener Case File] 73 Kevin Keener notes regarding case], 74 [Drafts related to Keener Declaration], 75 [Documents where Kevin Keener has served as expert], 76 [Documents relating to assistance Kevin Keener provided to 25 large manufacturing facilities], 77 [Documents relating to assignments Kevin Keener received from 25 large manufacturing facilities], 78 [Documents relating basis for Kevin Keener's conclusion in paragraph 6 of his declaration], 79 [Documents relating Kevin Keener's visit to the Livingston facility], 80 [Documents relating basis for Kevin Keener's conclusion in paragraph 8 of his declaration], 81 [Documents relating basis for Kevin Keener's conclusion in paragraph 9 of his declaration], 82 [Documents relating methodology in performing national survey referred to by Kevin Keener in his declaration], 83 [Documents relating basis for Kevin Keener's conclusion in paragraph 10 of his declaration], 84 [Documents relating basis for Kevin Keener's conclusion in paragraph 11 of his declaration], 84 [Documents relating Foster Farms Water usage at Livingston], 86 [Documents relating basis for Kevin Keener's conclusion in paragraph 13 of his declaration], 87 [Documents Kevin Keener relied upon in developing Schedule C to his Declaration], 88 [Documents relating basis for Kevin Keener's conclusion in paragraph 14 of his declaration], 89 [Documents relating basis for Kevin Keener's conclusion in paragraph 17 of his declaration], 90 [Documents relating basis for Kevin Keener's conclusion in paragraph 18 of his declaration], 91 [Documents relating basis for Kevin Keener's conclusion in paragraph 19 of his declaration], 92 [Documents relating basis for Kevin Keener's conclusion in paragraph 20 of his declaration], and 93 [Documents relating basis for Kevin Keener's conclusion in paragraph 21 of his declaration].

(Number 8 Above) The Plaintiff's Motion to Compel Further Discovery Responses to Request for Production set Six and For Monetary Sanctions of \$5,607.50 filed June 21, 2024 seeking to compel further responses to Request for Production 1 [Profit and Loss Statements since 2010], 2 [Documents reflecting rates paid for electricity at Livingston], 3 [Rates paid for water at Livingston], 4 [Compensation for labor relating to receiving chickens at Livingston], 5 [Compensation for labor relating to hanging chickens at Livingston], 6 [Compensation for labor relating to electric immobilization at Livingston], 7 [Documents relating to consumer sensitivity to price increases], 8 [Documents related to consumers willingness to pay for higher quality chicken breasts], 9 [Documents related to consumers willingness to pay for higher animal welfare standards], 10 [Documents related to consumers willingness to pay for controlled atmosphere system], 11 [Business valuations related to acquisition of Foster Poultry Farms by Atlas Holdings], 12 [Discounted cash flow related to acquisition of Foster Poultry Farms by Atlas Holdings], 13 [Documents relating to \$30 Million Upgrade of slaughter and processing facility at Farmerville Louisiana], 14 [Documents related to financial impact of controlled atmosphere system], 15 [Documents related to financial impacts of converting Electric Immobilization to a controlled atmosphere system], 16 [Documents relating to breakdown of case per chicken for raising, transporting, slaughtering, and processing chickens], 17 [Cost of installing electric immobilization] , 18 [Documents relating to replacing electric immobilization], 19 [Documents relating to upgrading electric immobilization], 20 [Documents relating to labor injuries at slaughter and processing facilities], 21 [Research on percentage of pre-stun shocks or other improper stuns at Livingston], 22 [Documents relating to research conducted on shackling time at

Livingston], and 23 [Documents relating to amount of chicken breast mean, wing meat and thing meat lost to trimming].

Plaintiff's Motion to Compel Further Discovery Responses to Plaintiff's Request for Admissions, Set Two, and Request for Sanctions in the Amount of \$5,222.50 filed June 21, 2024 seeking to compel further responses to Request 31 [Admit that it is physically possible to convert to moisturized hot air scalding at the Livingston Facility], Request 32 [Admit that it is physically possible to convert to air chilling at the Livingston Facility], Request 35 [Admit that the gallons of water you use per chicken slaughtered is higher at the Livingston Facility than at your Cherry Slaughterhouse in Fresno, California], and Verifications to all Requests Propounded.

The Objections by Defendant Foster Poultry Farms to Request for Admission 31, Request for Admission 32 and Request for Admission 35 on the grounds of vague and ambiguous, not limited in scope, and that the requests relate to private personal, business confidential, proprietary, and/or trade secret information are OVERRULED. Defendant Foster Poultry Farms is ordered to make a diligent search and conduct reasonable inquiry and serve, by August 30, 2024, verified code compliant responses to Request for Admission 31, Request for Admission 32, and Request for Admission 35 that unambiguously admit so much of each request as Foster Poultry Farms elects to admit, and unambiguously deny all aspects of the requests that are not admitted.

Plaintiff's Motion to Compel Further Discovery Responses to Plaintiff's Special Interrogatories, Set Three, and Request for Monetary Sanctions in the Amount of \$5,030 filed June 21, 2024 and seeking to compel further Responses to Interrogatories 26 [State the total number of chickens slaughtered annually at your Cherry Slaughterhouse in Fresno, California, since January 1, 2016], 27 [State the total number of chickens slaughtered annually at your Belgravia slaughterhouse in Fresno, California since January 1, 2016], 29 [Identify the reason that the City of Livingston filed its Withdrawal of Notice of Disclaimer of Participation in this matter], and 31 [Explain how you use Foster000816-1916 and Foster0007631-7371].

The objections by Defendant Foster Poultry Farms to Interrogatories 26, 27, 29 and 31 are OVERRULED. With regard to Interrogatory 29, there is no protection of communications from Real Party in Interest concerning its reasons for Withdrawing its Disclaim of Participation. With regard to Interrogatory 31, the question simply requests the manner in which Defendant Foster Poultry Farms utilizes the information contained in Foster000816-1916 and Foster0007631-7371. It is possible that information was never used by anybody, it is possible that it was disseminated to certain employees for some purpose that was either achieved or not achieved. Defendant Foster Poultry Farms is ordered to make a diligent search and conduct reasonably inquiry and serve, by August 30, 2024, verified code compliant responses to Interrogatories 26, 27, 29, and 31, without objections.

Plaintiff's Motion to Compel Further Discovery Responses to Plaintiff's Supplemental Request for Production of Documents, Set Two, and Request for Monetary Sanctions of \$4,737.50 filed June 21, 2024 and seeking Supplemental Responses to Requests For Production Sets One (Requests 1-23), Set Two (Requests 1-8), Set Three (Requests 1-8), Set Four (Requests 1-94), Set Five (No Specific Requests Listed in Separate Statement) and Set Six (Requests 1-23).

The Code expressly provides for supplemental response where a previous verified response has been provided with respect to the facts existing at the time the verified response is served, and the propounding party simply wishes an update with regarding

any change in fact since the date of previous verified response was served. Since a responding party has a duty to conduct a diligent search and make reasonable inquiry to determine if responsive facts or documents exist, an unverified response serves no practical purpose other than to alert the propounding party that there are potential objections to the request if and when a diligent search might be made, and therefore an unverified response is not viewed by the law as constituting any response. There is no time limit to bringing a motion to compel a response when no verified response has been provided. Accordingly, this Court view a Motion to Compel a Supplemental Request as a Motion to Compel initial request if no prior verified response has been provided, and as a Motion to Compel an updated response since the date of the prior response, if a prior verified response was provided.

The Objections to Requests for Production, Set One; Request for Production, Set Two, Request for Production Set Three, and Requests for Production Set Four are **OVERRULED EXCEPT TO THE EXTENT THAT DOCUMENTS SUBJECT TO OBJECTIONS BASED ON ATTORNEY-CLIENT PRIVILEGE AND ATTORNEY WORK PRODUCT DOCTRINE ARE IDENTIFIED WITH PARTICULARITY IN A PRIVILEGE LOG.** Defendant Foster Poultry Farms is ordered perform a diligent search and conduct reasonable inquiry and to serve, by August 30, 2024, verified code compliant responses, if no prior verified response has been provided, or supplemental responses, where a prior verified response has been provided, to Requests for Production, Set One; Request for Production, Set Two, Request for Production Set Three, and Requests for Production Set Four without objections other than attorney-client privilege and attorney work product providing that such objections are documented in a privilege log identifying with particularity each responsive document to which the claim pertains. All responsive documents not previously produced shall be produced on August 30, 2024 subject to protective order where appropriate.

The Court notes that Request for Production of Documents, Set Five, and Request for Production of Documents Set Six, are the subject of separate motions to compel portions of those requests that are dealt with below. Thus, the motion to compel supplemental responses to Request for Production of Documents, Set Five, and Request for Production of Documents Set Six are assumed to relate to the portion of those requests for which some form of response was provided and for which further response was not deemed necessary and not included in the pending motions relating to Set Five and Set Six. Accordingly, the objections to requests for supplemental responses to Set Five or Set Six that are not the subject of separate motions to compel are **OVERRULED EXCEPT TO THE EXTENT THAT DOCUMENTS SUBJECT TO OBJECTIONS BASED ON ATTORNEY-CLIENT PRIVILEGE AND ATTORNEY WORK PRODUCT DOCTRINE ARE IDENTIFIED WITH PARTICULARITY IN A PRIVILEGE LOG.** Defendant Foster Poultry Farms is ordered to perform a diligent search, conduct reasonable inquiry, and serve, by August 30, 2024, verified code compliant supplemental responses search to the portions of Set Five and Set Six that are not the subject of separate motions to compel, without objections other than attorney-client privilege and attorney work product providing that such objections are documented in a privilege log identifying with particularity each responsive document to which the claim pertains. All responsive documents not previously produced shall be produced on August 30, 2024 subject to protective order where appropriate.

Plaintiff's Motion to Compel Further Discovery Responses to Request for Production set Five and For Monetary Sanctions of \$6,747.50 filed June 21, 2024 seeks to compel further responses to Requests for Production that can be generally classified to fall into four distinct categories: (1) Chicken Slaughterhouse Operations, (2) Communications with City of Livingston regarding litigation, (3) Industry Literature, Conference and Consulting

Information, and (4) Documents Relating to Declarations Submitted in Support of Pending Motion for Summary Judgment. Since the issues affecting discoverability of these categories of documents differ, they will be addressed separately. All objections expressed or implied concerning the sheer volume of discovery are **OVERRULED**. The law permits a party to seek a protective order where discovery is viewed as excessive or unduly burdensome. No such protective order was sought, and this Court finds that the volume of discovery is not particularly excessive given the complexity and importance of the issues being litigated.

Documents Relating to Chicken Slaughterhouse Operations:

Plaintiff seeks to compel further responses to Request 2 [Documents related to cost to convert from water immersion chilling to air chilling for Cherry Slaughterhouse in Fresno], 3 [Budgets for conversion to controlled atmosphere system at Livingston], 5 [plat maps related to surveys of land at Livingston site], 6 [surveys of Land at Livingston site], Request 9 [Documents related to number of chickens slaughtered at Cherry Slaughterhouse since January 1, 2016], 10 [Documents related to number of chickens slaughtered at Belgravia slaughterhouse since January 1, 2016], 11 [Documents related to water used annually at Cherry Slaughterhouse since January 1, 2022], 12 [Documents related to water used annually at Belgravia slaughterhouse in Fresno since January 1, 2022], 14 [documents related to pre-sorter tally counters in Livingston Facility since January 1, 2014], 15 [documents relating to claim that chicken products at Livingston are not specialty or premium products], 25 [Arrowsight alerts at Livingston Facility], 26 [documents related to Arrowsight reports at Livingston Facility], 27 [Documents related to incident with employee in shackling process], 28 [Documents related to backup killer at Livingston Facility], 29 [Documents related to job qualifications for Backup killers at Livingston], 32 [Documents related to mental health support for Backup Killers], 33 [Documents related to chickens Backup Killers had to manually cut or decapitate at Livingston], 34 [Documents related to length of shifts for Backup Killers], 35 [Documents related to Backup Killer job turnover], 26 [Documents related to emergency stops initiated by Backup Killers], 37 [Documents relating to environmental regulatory reporting requirements at Livingston], 38 [Environmental Reports], 40 [Documents relating to water conservation at any slaughterhouse], 41 [Documents relating to water conservation measures], 44 [Documents relating to reports of environmental management system], 45 [All data and analysis relied on building environmental management system], 46 [Documents relating to plan and purpose of environmental management system], 47 [Daily Water Reports related to wastewater projects], 52 [Documents relating to internal communications concerning standard operating procedures for slaughterhouses], 59 [All documents relating to water restrictions placed on Livingston facility], and 60 [Documents relating to Merced Groundwater sustainability plan].

The Court finds that the determination of whether a given use of water qualifies as waste, necessarily involves a comparison to alternatives. Accordingly, the details concerning various different slaughterhouse operations, while potentially proprietary, trade secret, and confidential, are directly relevant to whether operations conducted in Livingston are wasteful when compared to alternative operations used in other plants. Accordingly, objections concerning privacy, trade secret, and confidential are **OVERRULED, SUBJECT TO PRODUCTION PURSUANT TO AN APPROPRIATE PROTECTIVE ORDER**. The Court finds that communications between attorneys and management and between attorneys and undisclosed consultants concerning these issues are potentially protected by attorney-client privilege or attorney work product doctrine. Those objections are **OVERRULED EXCEPT TO THE EXTENT THAT DOCUMENTS SUBJECT TO OBJECTIONS BASED ON ATTORNEY-CLIENT PRIVILEGE AND ATTORNEY WORK PRODUCT DOCTRINE ARE IDENTIFIED WITH PARTICULARITY IN A PRIVILEGE LOG**. Any

Communications between management and consultants not retained by counsel in connection with this litigation are not subject to attorney-client privilege or attorney work product doctrine. Objections with respect to communications or information provided by those consultants if OVERRULED.

The motion to compel Defendant Foster Poultry Farms to provide supplemental responses to to Requests for Production Request 2, 3, 5, 6, 9, 10, 11, 12, 14, 15, 25, 26, 27, 28, 29, 32, 33, 34, 35, 36, 37, 38, 41, 44, 45, 46, 47, 52, 59 and 60 is GRANTED. Defendant Foster Poultry Farms is ordered to serve, by August 30, 2024, verified, code compliant responses to Requests for Production Request 2, 3, 5, 6, 9, 10, 11, 12, 14, 15, 25, 26, 27, 28, 29, 32, 33, 34, 35, 36, 37, 38, 41, 44, 45, 46, 47, 52, 59 and 60 without objections other than attorney-client or attorney work product providing each withheld document is identified with particularity in a privilege log, and to produce all responsive documents subject to an appropriate protective order.

Documents Relating to City of Livingston Regarding Litigation
Request 16 [Documents related to City of Livingston withdrawal of Disclaimer of Participation], 17 [[documents relating to conversations with City of Livingston regarding this matter], and 18 [Documents related to payments of City of Livingston's costs or fees in this matter]. All objections are overruled. The Motion to compel further Response to Requests 16, 17, and 18 is GRANTED, Defendant Foster Poultry Farms is ordered to serve, by August 30, 2024, verified, code compliant responses to Requests for Production Request 16, 17 and 18 without objections, and to produce all responsive documents.

Industry Literature, Conference and Consulting Information
Request 53 [Documents related to industry conferences], 54 [All advertisements and solicitations you received from industry publications], 55 [Documents and information provided by environmental consulting firms]. All objections except attorney-client privilege and attorney work product are OVERRULED. The motion to compel further responses is GRANTED. Defendant Foster Poultry Farms is ordered to serve, by August 30, 2024, verified, code compliant responses to Requests for Production Request 53, 54, and 55 without objections other than attorney-client or attorney work product providing each withheld document is identified with particularity in a privilege log, and to produce all responsive documents.

Documents Relating to Declarations Submitted in Support of Pending Motion for Summary Judgment
Request 61 [Documents relied upon by Kevin Keener in Motion for Summary Judgment], 62 [Documents relied upon by Mark Bryne in Motion for Summary Judgment], 63 [All communications with Anthony Chavarria], 64 [All communications with Christopher Lopez], 65 [Communications with Kevin Keener], 66 [Agreements with Kevin Keener], 67 [Documents related to agreements with Kevin Keener], 68 [Documents provided to Kevin Keener], 69 [Documents provided to Kevin Keener after he was retained], 70 [Kevin Keener Billing Statements], 71 [Documents evidencing payment to Kevin Keener], 72 [Kevin Keener Case File] 73 Kevin Keener notes regarding case], 74 [Drafts related to Keener Declaration], 75 [Documents where Kevin Keener has served as expert], 76 [Documents relating to assistance Kevin Keener provided to 25 large manufacturing facilities], 77 [Documents relating to assignments Kevin Keener received from 25 large manufacturing facilities], 78 [Documents relating basis for Kevin Keener's conclusion in paragraph 6 of his declaration], 79 [Documents relating Kevin Keener's visit to the Livingston facility], 80 [Documents relating basis for Kevin Keener's conclusion in paragraph 8 of his declaration], 81 [Documents relating basis for Kevin Keener's conclusion in paragraph 9 of his declaration], 82 [Documents relating methodology in

performing national survey referred to by Kevin Keener in his declaration], 83 [Documents relating basis for Kevin Keener's conclusion in paragraph 10 of his declaration], 84 [Documents relating basis for Kevin Keener's conclusion in paragraph 11 of his declaration], 84 [Documents relating Foster Farms Water usage at Livingston], 86 [Documents relating basis for Kevin Keener's conclusion in paragraph 13 of his declaration], 87 [Documents Kevin Keener relied upon in developing Schedule C to his Declaration], 88 [Documents relating basis for Kevin Keener's conclusion in paragraph 14 of his declaration], 89 [Documents relating basis for Kevin Keener's conclusion in paragraph 17 of his declaration], 90 [Documents relating basis for Kevin Keener's conclusion in paragraph 18 of his declaration], 91 [Documents relating basis for Kevin Keener's conclusion in paragraph 19 of his declaration], 92 [Documents relating basis for Kevin Keener's conclusion in paragraph 20 of his declaration], and 93 [Documents relating basis for Kevin Keener's conclusion in paragraph 21 of his declaration]. All objections other than attorney-client privilege are deemed waived by the filing of Declarations containing the expert opinions of the above witnesses.

The Motion to compel further responses to Request 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, and 93 is GRANTED. Defendant Foster Poultry Farms is ordered to serve, by August 30, 2024, verified, code compliant responses to Requests for Production Request 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, and 93 without objections other than attorney-client or attorney work product providing each withheld document is identified with particularity in a privilege log, and to produce all responsive documents.

The Plaintiff's Motion to Compel Further Discovery Responses to Request for Production set Six and For Monetary Sanctions of \$5,607.50 filed June 21, 2024 seeking to compel further responses to Request for Production 1 [Profit and Loss Statements since 2010], 2 [Documents reflecting rates paid for electricity at Livingston], 3 [Rates paid for water at Livingston], 4 [Compensation for labor relating to receiving chickens at Livingston], 5 [Compensation for labor relating to hanging chickens at Livingston], 6 [Compensation for labor relating to electric immobilization at Livingston], 7 [Documents relating to consumer sensitivity to price increases], 8 [Documents related to consumers willingness to pay for higher quality chicken breasts], 9 [Documents related to consumers willingness to pay for higher animal welfare standards], 10 [Documents related to consumers willingness to pay for controlled atmosphere system], 11 [Business valuations related to acquisition of Foster Poultry Farms by Atlas Holdings], 12 [Discounted cash flow related to acquisition of Foster Poultry Farms by Atlas Holdings], 13 [Documents relating to \$30 Million Upgrade of slaughter and processing facility at Farmerville Louisiana], 14 [Documents related to financial impact of controlled atmosphere system], 15 [Documents related to financial impacts of converting Electric Immobilization to a controlled atmosphere system], 16 [Documents relating to breakdown of case per chicken for raising, transporting, slaughtering, and processing chickens], 17 [Cost of installing electric immobilization], 18 [Documents relating to replacing electric immobilization], 19 [Documents relating to upgrading electric immobilization], 20 [Documents relating to labor injuries at slaughter and processing facilities], 21 [Research on percentage of pre-stun shocks or other improper stuns at Livingston], 22 [Documents relating to research conducted on shackling time at Livingston], and 23 [Documents relating to amount of chicken breast meat, wing meat and thigh meat lost to trimming].

Plaintiff's Motion to Compel Further Discovery Responses to Request for Production set Six Request for Production 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, and 23 is GRANTED. Defendant Foster Poultry Farms is ordered to serve, by

August 30, 2024, verified, code compliant responses to Requests for Production Request 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, and 23 without objections other than attorney-client or attorney work product providing each withheld document is identified with particularity in a privilege log, and to produce all responsive documents.

The Plaintiff's Motion to Compel Further Discovery Responses to Plaintiff's Request for Admissions, Set Two, also sought Sanctions in the Amount of \$5,222.50. Plaintiff's Motion to Compel Further Discovery Responses to Plaintiff's Special Interrogatories, Set Three, also sought Sanctions in the Amount of \$5,030. Plaintiff's Motion to Compel Further Discovery Responses to Plaintiff's Supplemental Request for Production of Documents, Set Two, also requested Sanctions of \$4,737.50. Plaintiff's Motion to Compel Further Discovery Responses to Request for Production set Five also sought Sanctions of \$6,747.50 . Plaintiff's Motion to Compel Further Discovery Responses to Request for Production set Six also sought Sanctions of \$5,607.50. The total sanctions requested for all five motions is \$27,345.00 The Court exercises its discretion to defer ruling on the amount of sanctions until the Summary Judgment, currently set for August 8, 2024, and all discovery issues relating to that motion, are finally resolved. Accordingly, the issue of sanctions is continued to August 8, 2024 at 8:15 A.M. Courtroom 10.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

Mandatory Settlement Conference
Hon. Brian L. McCabe
Courtroom 8
627 W. 21st Street, Merced

Wednesday, August 7, 2024
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:

1. You must call (209) 725-4111 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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| There are no Mandatory Settlement Conferences Scheduled | |
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SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

Limited Civil Calendar
Hon. Mason Brawley
Courtroom 9
627 W. 21st Street, Merced

Wednesday, August 7, 2024
10:00 a.m.

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

1. You must call (209) 725-4111 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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| 22CV-00649 | Frank Vadez v. Byron Limon |
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Order of Examination

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. This is the second hearing on a previously served Order of Examination. Defendant was to appear with a completed SC-133 Form.

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| 22CV-03848 | LVNV Funding LLC v. Crystal Neal |
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Order to Show Cause re Dismissal-Notice of Settlement

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 settlement.

23CV-04475

Onemain Financial Group, LLC v. Helen Chavez

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.

24CV-01728

[Parties' names withheld pursuant to CCP § 1161.2(a)(1)]

Court Trial: Unlawful Detainer

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.

24CV-02575

[Parties' names withheld pursuant to CCP § 1161.2(a)(1)]

Court Trial: Unlawful Detainer

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.

24CV-02995

[Parties' names withheld pursuant to CCP § 1161.2(a)(1)]

Court Trial: Unlawful Detainer

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.

24CV-03236

[Parties' names withheld pursuant to CCP § 1161.2(a)(1)]

Court Trial: Unlawful Detainer

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. Brian L. McCabe
Courtroom 8
627 W. 21st Street, Merced

Wednesday, August 7, 2024
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:

1. You must call (209) 725-4111 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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| There are no Ex Parte matters scheduled. | |
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SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

Ex Parte Matters
Hon. Mason Brawley
Courtroom 9
627 W. 21st Street, Merced

Wednesday, August 7, 2024
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:

1. You must call (209) 725-4111 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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| 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

Wednesday, August 7, 2024
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:

1. You must call (209) 725-4111 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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| There are no Ex Parte matters scheduled. | |
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SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

Limited Civil Long Cause Court Trials
Hon. Mason Brawley
Courtroom 9
627 W. 21st Street, Merced

Wednesday, August 7, 2024
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:

1. You must call (209) 725-4111 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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| 21CV-00360 | Discover Bank v. Salvador Rubalcava |
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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.