

**Superior Court of the State of California
County of Orange**

DEPT C25 TENTATIVE RULINGS

The Honorable Nico A. Dourbetas

Civil Court Reporters: The Court does not provide court reporters for law and motion hearings. Please see the Court's website for rules and procedures for court reporters obtained by the Parties.

Tentative Rulings: The Court will endeavor to post tentative rulings on the Court's website by 4 p.m. on the day before the motion is set to be heard. Do NOT call the Department for a tentative ruling if none is posted. **The Court will NOT entertain a request for continuance or the filing of further documents once a tentative ruling has been posted.**

Submitting on the Tentative Ruling: If ALL counsel intend to submit on the tentative ruling and do not wish oral argument, please advise the Court's clerk or courtroom attendant by calling (657) 622-5225. If all sides submit on the tentative ruling and so advise the Court, the tentative ruling shall become the Court's final ruling and the prevailing party shall give Notice of Ruling and prepare an Order for the Court's signature if appropriate under CRC 3.1312. **Please do not call the Department unless ALL parties submit on the tentative ruling.**

Non-Appearances: If no one appears for the hearing and the Court has not been notified that all parties submit on the tentative ruling, the Court shall determine whether the matter is taken off calendar or whether the tentative ruling shall become the final ruling.

Appearances: Counsel may appear by video on Zoom.

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Date: April 18, 2025

1	The Adventure Challenge, LLC vs. Bartlett 2020-01152187	Motion for Summary Judgment and/or Adjudication Plaintiff The Adventure Challenge, LLC's motion for summary judgment against defendants Brett Bartlett and Concept Management Company is GRANTED. Plaintiff has met its initial burden showing it has established each element of the claims for breach of

		<p>contract and fraudulent inducement. Ca. Code of Civil Procedure Section 437c,</p> <p>Defendants have not opposed this motion. As such, they have not met their now shifted burden raising a triable issue fact exists as to either cause of action. See Gano v. Metalclad Insulation Corp. (2014) 227 Cal.App.4th 1577.</p> <p>Plaintiff to submit the formal order.</p> <p>Plaintiff to give notice.</p>
<p>2</p>	<p>Doe #1 F.H. vs. Roe 1</p> <p>2022-01299995</p>	<p>Demurrer to Amended Complaint</p> <p>The demurrer by defendant The General Council of the Assemblies of God to plaintiff's First Amended Complaint [FAC] is SUSTAINED as to the 3rd and 6th causes of action, on grounds of failure to state facts sufficient to constitute a cause of action, and is otherwise OVERRULED. (Code Civ. Proc., § 430.10 [authorizing demurrer].)</p> <p>The Court observes that both parties argue facts and/or evidence which are not alleged in the FAC, nor subject to judicial notice. (Demurrer at 5:11-18, 11:1-3, 11:1-24, 12:23-27 [church organization, defendant's purported lack of knowledge or oversight]; Opposition at 3:19-4:21 [church organization, instances of abuse not alleged in FAC]; Ex. A to Opp [minutes from a 1998 meeting of the "Northern Pacific Latin American District Council".]) It is well settled that a demurrer can be used only to challenge defects that appear on the face of the pleading, or from matters outside the pleading of which judicial notice has been properly requested. (Blank v. Kirwan (1985) 39 Cal.3d 311, 318.) The Court has not considered these extrinsic matters. The parties are cautioned to avoid improper references to extrinsic matters on future pleading challenges, absent a proper request for judicial notice.</p> <p>The 3rd cause of action for sexual harassment pursuant to Civ. Code, §§ 51.9 & 52, and the 6th cause of action for violation of civil rights pursuant to Civ. Code, § 52.1, fail to state sufficient facts. (Code Civ. Proc., § 430.10, subd. (e).) Statutory claims must be pled with specificity. (Covenant Care, Inc. v. Superior Court (2004) 32 Cal.4th 771, 790; Fisher v.</p>

		<p>San Pedro Peninsula Hospital (1989) 214 Cal.App.3d 590, 604.) These causes of action only generally allege the elements of each claim, without any specific facts, which is insufficient. Further, the 6th cause of action fails to identify any specific constitutional or statutory right infringed, nor that plaintiff is a member of any specific class of people that this law was designed to protect.</p> <p>The remainder of the demurrer is OVERRULED. The remaining claims challenged by the instant demurrer are not statutory claims and are not required to be pled with the specificity required for the 3rd and 6th causes of action. (Doe v. City of Los Angeles (2007) 42 Cal.4th 531, 550 [“the complaint ordinarily is sufficient if it alleges ultimate rather than evidentiary facts”]; Lim v. The.TV Corp. Internat. (2002) 99 Cal.App.4th 684, 690 [“California law emphasizes ultimate fact pleading (with some exceptions, notably for fraud and related torts) in ordinary and concise language, and the test for adequacy is not absolute but whether the pleading as a whole apprises the adversary of the factual basis of the claim;” internal citations and quotation marks omitted].)</p> <p>Here, the FAC sufficiently alleges ultimate facts as to defendant’s allegedly negligent hiring and/or supervision. (C.A. v. William S. Hart Union High School Dist. (2012) 53 Cal.4th 861, 878-879 [entity defendant “may be vicariously liable ... for the negligence of administrators or supervisors in hiring, supervising and retaining [an] employee who sexually harasses and abuses” a minor”]; FAC ¶¶ 17, 25-27 [alleging negligent hiring and/or supervision].)</p> <p>The FAC also sufficiently alleges ultimate facts supporting employer liability on a ratification theory. (C.R. v. Tenet Healthcare Corp. (2009) 169 Cal.App.4th 1094, 1110-1111 [“failure to discharge an employee who has committed misconduct may be evidence of ratification ... [t]he theory of ratification is generally applied where an employer fails to investigate or respond to charges that an employee committed an intentional tort, such as assault or battery ... [w]hether an employer has ratified an employee's conduct is generally a factual question”]; LeBrun v. CBS Television Studios, Inc. (2021) 68 Cal.App.5th 199, 208 [“ratification of a wrongful act creates tort liability in the ratifier for that wrongful act”]; Ratcliff v. The Roman Catholic Archbishop of Los Angeles (2022) 79 Cal.App.5th 982, 1003, citing C.R.</p>
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		<p>v. Tenet Healthcare Corp., supra at 1110–1111 [“Evidence of the ratification may come in many forms, for example where an employer fails to terminate, investigate, or respond to charges that an employee has committed an intentional tort”]; FAC ¶ 17 [alleging ratification] ¶ 36 [“Defendants ratified Perpetrator(s)’ sexual abuse of Plaintiff because Defendants had actual knowledge that Perpetrator(s) had sexually harassed and abused minors, including but not limited to Plaintiff, yet they intentionally turned a blind eye and still allowed Perpetrator(s) to work for Defendants, and did nothing to prevent any further abuse from occurring ... Defendants did not discipline or discharge Perpetrator(s); as such, they accepted and thus ratified his/her conduct”]; ¶ 42 [same].)</p> <p>Finally, the FAC is not so uncertain (Code Civ. Proc., § 430.10, subd. (f)) that moving defendant cannot reasonably determine what issues must be admitted or denied, or what counts or claims are directed against it. (Khoury v. Maly's of Calif., Inc. (1993) 14 Cal.App.4th 612, 616; see also Lickiss v. Financial Industry Regulatory Authority (2012) 208 Cal.App.4th 1125, 1135 [uncertainty demurrers “strictly construe[d] ... because ambiguities can reasonably be clarified under modern rules of discovery”].)</p> <p>Plaintiff is granted 10 days’ leave to amend the 3rd and 6th causes of action.</p> <p>Moving party shall give notice.</p>
3	<p>Bakhshaei vs. Perez</p> <p>2023-01353623</p>	<p>Motion to Compel Answers to Form Interrogatories</p> <p>***Continued to May 30, 2025 at 9:30 AM by minute order dated 04/10/2025 (ROA 52)***</p>
4	<p>Wang vs. Geng</p> <p>2022-01242154</p>	<p>1. Motion for Reconsideration 2. Case Management Conference</p>

		<p>Defendant/Cross-Complainant Yao Geng’s motion for reconsideration on Plaintiff/Cross-Defendant Shasha Wang’s motion for summary judgment or, in the alternative, summary adjudication is DENIED. (Code Civ. Proc. [“CCP”], § 1008, subd. (a).)</p> <p>Defendant/Cross-Complainant has failed to raise any “new or different facts, circumstances, or law.” (Id.) Defendant/Cross-Complainant also did not comply with the statutory requirement requiring an affidavit/declaration that states “what application was made before, when and to what judge, what order or decisions were made, and what new or different facts, circumstances, or law are claimed to be shown.” Even if Defendant/Cross-Complainant’s arguments based on CCP section 916 could be considered “new” (even though the statute itself is not “new”), Defendant/Cross-Complainant has not offered any satisfactory explanation for failing to raise this issue earlier as part of its opposition to the motion for summary judgment/adjudication. (See Garcia v. Hejmadi (1997) 58 Cal.App.4th 674, 688, 690; N.Y. Times Co. v. Super. Ct. (2005) 135 Cal.App.4th 206, 213 [“the information must be such that the moving party could not, with reasonable diligence, have discovered or produced [earlier]”].)</p> <p>**Case Management Conference is continued to April 23, 2025 at 9 AM.</p> <p>Plaintiff/Cross-Defendant shall provide notice of all the above.</p>
5	<p>Brodeur vs. Target Corporation</p> <p>2020-01242154</p>	<p>1. Motion for Discovery Protective Orders 2. Motion to Compel Production 3. Motion to Compel Answers to Special Interrogatories</p> <p>Defendant Target Corporation’s Motion for Protective Order</p> <p>Defendant Target Corporation’s Motion for Protective Order is GRANTED in part. (Code Civ. Proc. §2030.090.) Plaintiff Michael Brodeur has failed to meet his burden to substantiate the necessity of Plaintiff’s Special Interrogatories, Set Four, consisting of 59 total interrogatories. (See Code Civ. Proc. §2030.040, subd. (b).) The Court finds that these additional interrogatories are unwarranted. (Code Civ.</p>

Proc. §2030.090, subd. (b)(2).) The Court finds that these Interrogatories are superfluous and are intended to unnecessarily increase the cost of litigation. This is especially true in light of the fact that substantially all of the information Plaintiff seeks through these interrogatories could be addressed by Defendant producing an unredacted copy of the spreadsheet (the document Bates Labelled as TARGET000655-000665).

Accordingly, Plaintiff's Special Interrogatories, Set Four is limited as follows:

Defendant shall disclose the age of each employee listed in the spreadsheet located at bates range TARGET000655-000665. This balances the privacy interest of third party employees against Plaintiff's interest in establishing his case for age discrimination.

Plaintiff Michael Brodeur's Motion to Compel Further Responses to Special Interrogatories

Plaintiff Michael Brodeur's Motion to Compel Further Responses to Special Interrogatories is DENIED as moot, in light of the foregoing ruling on Defendant Target Corporation's Motion for Protective Order.

Plaintiff Michael Brodeur's Motion to Compel Further Responses to Request for Production of Documents, Set Three

Plaintiff Michael Brodeur's Motion to Compel Further Responses to Request for Production of Documents, Set Three is DENIED. Defendant shall provide further verified code compliant responses to Plaintiff's Request for Production of Documents, Set Three within 30 days of notice. (See Code Civ. Proc. §2031.220.) For the purpose of these supplemental responses, the requests shall be limited to seeking only non-privileged communications related to the disciplinary actions. In light of Defendant's supplemental production, no further production of documents is warranted.

Plaintiff has established good cause for further production. (See Bellah Decl. ¶2.) Namely, these documents are directly relevant to Plaintiff's allegation that Defendant has a pattern and practice of discriminatory treatment. Plaintiff has adequately met and conferred regarding the dispute raised in the motion. (See Bellah Decl. ¶¶ 3-4, Exh. 3.) Plaintiff's separate statement sufficiently complies with the requirements of Cal. Rules of Court, Rule 3.1345. (See

		<p>ROA No. 178.) Defendant’s waiver argument is not persuasive. The Requests at issue here are sufficiently different from the Requests identified in Plaintiff’s Request for Production, Set Two. Moreover, <i>New Albertsons, Inc. v. Superior Court</i> (2008) 168 Cal.App.4th 1403 was made in the context of a motion for discovery sanctions seeking further production of stale Requests for Production, rather than a motion to compel further responses to a new set of Requests for Production. Here, the supplemental responses were served on 10/9/24, and did not object that the Requests were duplicative of prior Requests. The Motion was filed 11/25/24, which is within the 45 day period to move to compel further responses.</p> <p>Since Plaintiff has established the grounds for the motion to compel further responses, the burden shifts to Defendant to establish the sufficiency of its responses.</p> <p>Defendant has failed to demonstrate that its responses comply with Code Civ. Proc. §2031.220. (See <i>Kirkland v. Superior Court</i> (2002) 95 Cal.App.4th 92, 98.)</p> <p>The Court declines to award monetary sanctions.</p> <p>Plaintiff shall provide notice of all the above.</p>
6	<p>Annan vs. CONAM Management Corporation</p> <p>2022-01278541</p>	<p>1. Demurrer to Amended Complaint 2. Motion to Quash Service of Summons 3. Motion to Strike Complaint 4. Case Management Conference</p> <p>***Continued to May 30, 2025 at 9:30 AM by minute order dated 04/10/2025 (ROA 157)***</p>
7	<p>Cortez vs. Bergan</p> <p>2023-01338315</p>	<p>1. Motion to Compel Answers to Form Interrogatories 2. Motion to Compel Answers to Special Interrogatories 3. Motion to Compel Answers to Special Interrogatories</p>

		<p>4. Motion to Compel Production 5. Motion to Compel response to Requests for Admissions</p> <p>*****</p>
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