

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF SAN MATEO

Law and Motion Calendar  
HONORABLE NANCY L. FINEMAN  
Department 4  
400 County Center, Redwood City  
Courtroom 4C

Tuesday, July 30, 2024

IF YOU **INTEND TO APPEAR** ON ANY CASE ON THIS CALENDAR YOU MUST DO ONE OF THE FOLLOWING:

1. EMAIL [Dept4@Sanmateocourt.org](mailto:Dept4@Sanmateocourt.org) BEFORE 4:00 P.M. CONTEMPORANEOUSLY COPIED TO ALL PARTIES OR THEIR COUNSEL OF RECORD. IF BY EMAIL, IT MUST INCLUDE THE NAME OF THE CASE, THE CASE NUMBER, AND THE NAME OF THE PARTY CONTESTING THE TENTATIVE RULING
2. YOU MUST CALL (650) 261-5104 BEFORE 4:00 P.M. AND FOLLOW THE INSTRUCTIONS ON THE MESSAGE.
3. YOU MUST GIVE NOTICE BEFORE 4:00 P.M. TO ALL PARTIES OF YOUR INTENT TO APPEAR PURSUANT TO CALIFORNIA RULES OF COURT, RULE 3.1308 (a) (1) .

Failure to do both items 1 or 2, and 3 will result in no oral presentation.

**At this time, appearances can be in person or by Zoom. When you sign in to Zoom, use your first and last name. Mute your line until your case is called. RECORDING OF A COURT PROCEEDING IS PROHIBITED.**

**Please check in by 1:50 pm.**

**Zoom Video/Computer Audio Information:**

<https://sanmateocourt.zoomgov.com/>

**Meeting ID:** 160 624 8977

**Password:** 230279

**Zoom Phone-Only Information Please note: You must join by dialing in from a telephone; credentials will not work from a tablet or PC. VIDEO APPEARANCES ARE PREFERRED.**

**Phone number:** 1-669-254-5252

**Meeting ID:** 160 624 8977

**Password:** 230279

**TO ASSIST THE COURT REPORTER, the parties are ORDERED** to: (1) state their name each time they speak and only speak when directed by the Court; (2) not to interrupt the Court or anyone else; (3) speak slowly and clearly; (4) use a dedicated land line if at all possible, rather than a cell phone; (5) if a cell phone is absolutely necessary, the parties must be stationary and not driving or moving; (6) no speaker phones under any circumstances; (7) provide the name and citation of any case cites; and (8) spell all names, even common names.

**NOTICE**

Effective July 1<sup>st</sup>, 2024

Nancy L. Fineman, Civil Judge and Department 4 are now located in:

Courtroom 4C  
Southern Courthouse  
400 County Center  
Redwood City, CA 94063

Zoom link and dial-in credentials have been updated on Judge Fineman's webpage and the first page of the Tentative Ruling.

2:00 PM

17-CIV-00046 SHAWN O'NEIL VS. CITY OF SOUTH SAN FRANCISCO, ET AL.

SHAWN O'NEIL  
CITY OF SOUTH SAN FRANCISCO

ROBERT E. CARTWRIGHT  
DAVID S. ROSENBAUM

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DEFENDANT JESUS GALVAN'S MOTION TO ENFORCE SETTLEMENT WITH PLAINTIFF  
SHAWN O'NEIL

**TENTATIVE RULING:**

Defendant Jesus Galvan's "Motion to Enforce Settlement with Plaintiff Shawn O'Neil Under Code of Civil Procedure Sect. 664.6," filed June 5, 2024, is DENIED. (Code Civ. Proc., § 664.6.)

For an out-of-court, written settlement agreement to be enforceable under Code of Civil Procedure section 664.6, all parties to the settlement must sign the document. (*Id.*, § 664.6, subd. (a) [requiring "a writing signed by the parties ..."]; *Sully-Miller Contracting Co. v. Gledson/Cashman Constr., Inc.* (2002) 103 Cal.App.4th 30, 37 ["A written settlement agreement is not enforceable under section 664.6 unless it is signed by all of the parties to the agreement, not merely the parties against whom the agreement is sought to be enforced ..."]; *Harris v. Rudin, Richman & Appel* (1999) 74 Cal.App.4th 299, 304-306 ["the plain language of section 664.6 does not limit its signature requirement to the 'party to be charged.' ... [the statute] require[s] the signatures of the parties seeking to enforce the agreement under section 664.6 and against whom the agreement is sought to be enforced. ... A procedure in which a settlement is evidenced by one writing signed by both sides minimizes the possibility of ... dispute[s] and legitimizes the summary nature of the section 664.6 procedure ... We [] hold the section's requirement of a 'writing signed by the parties' must be read to apply to all parties bringing the section 664.6 motion and against whom the motion is directed."].)

Here, the "Full and Final Release Agreement" (moving papers, Ex. F) was only signed by Plaintiff and Plaintiff's counsel. Defendant Galvan did not sign it. Therefore, the Court cannot enforce it under Code of Civil Procedure section 664.6. Notably, the document contains no signature block for defendant Galvan, which suggests it never intended for Galvan's signature. Without both parties signing the agreement, the court does not have authority to grant the motion.

If the tentative ruling is uncontested, it shall become the order of the court. Thereafter, counsel for plaintiff Shawn O'Neil shall prepare for the court's signature a written order consistent with the court's ruling, pursuant to California Rules of Court, rule 3.1312, and provide written notice of the ruling to all parties who have appeared in the action, as required by law and by the California Rules of Court. The court alerts the parties to revised Local Rule 3.403(b)(iv) (amended effective January 1, 2024) regarding the wording of proposed orders.

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2:00 PM

21-CIV-04610 ANA LUCIA DOE VS. STACY RUSSELL, ET AL.

ANA LUCIA DOE  
STACY RUSSELL

JOSHUA S. MARKOWITZ

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PETITION FOR APPROVAL OF COMPROMISE OF MINOR'S CLAIM

**TENTATIVE RULING:**

Petitioner and her attorney are to appear. (Cal. Rules of Court, rule 7.952(a).) Zoom appearances are allowed.

The court's tentative order is to GRANT the petition to approve the compromise of claim.

California Rules of Court, rule 7.950 requires a court to approve a compromise involving a minor, and the verified petition "must contain a full disclosure of all information that has any bearing on the reasonableness of the compromise, covenant, settlement, or disposition." (*Id.*) Attorney Joshua S. Markowitz submits a declaration in support of the petition demonstrating petitioner/plaintiff Ana Lúcia Doe's ("Ana Lúcia") relationship to the minor, the issues presented, and the plan for use of the settlement proceeds.

Based on its review of the petition, including all supporting documents, the court finds that the settlement is in the best interests of the minor. Liability is disputed, and further litigation is uncertain and would be expensive and stressful for the petitioner and the minor.

The court approves the requested expenses of \$2,271.68 incurred by counsel as reasonable and necessary.

The court approves Ana Lúcia's request for reimbursement of \$2,000 for medical costs from the settlement proceeds. Under California law, "The parents of a minor are normally responsible for medical and hospital care furnished the minor, and the cause of action to recover these items normally rests with the parents. But the child is also liable for the reasonable value of these expenses." (*Laughner v. Bryne* (1993) 18 Cal.App.4th 904; quoting *Bauman v. San Francisco* (1940) 42 Cal.App.2d 144, 162-63.) Ana Lúcia has spent \$2,980.00 on therapy for her minor daughter thus far. (Ex. 13.a.) Therefore, as the parent of minor plaintiff, the court finds her request for \$2,000 reasonable.

The court has reviewed the Petition and finds that a final allotment of \$13,228.32 of the settlement proceeds to the minors is fair and reasonable.

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The court approves the settlement proceeds being deposited in a blocked account at Wells Fargo Bank until the minor is eighteen.

Plaintiff's counsel waives attorneys' fees and the court commends counsel for this action. Pursuant to the retainer agreement, counsel was entitled to 25%, which is a reasonable fee. It is acts like the one by plaintiff's counsel in waiving fees that bring honor to the profession and increases confidence in our judicial system.

If the tentative is adopted at the hearing, it shall become the order of the court. Thereafter, counsel for plaintiff shall prepare a written order consistent with the court's ruling for the court's signature, pursuant to California Rules of Court, rule 3.1312, and provide written notice of the ruling to all parties who have appeared in the action, as required by law and the California Rules of Court. The court alerts the parties to revised Local Rule 3.403(b)(iv) (amended effective January 1, 2024) regarding the wording of proposed orders.

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2:00 PM

21-CLJ-04466 PORTFOLIO RECOVERY ASSOCIATES LLC VS. JENNIFER SAMUJH

PORTFOLIO RECOVERY ASSOCIATES LLC  
JENNIFER SAMUJH

KERI L. SALET

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CLAIM OF EXEMPTION

**TENTATIVE RULING:**

On August 18, 2021, plaintiff filed this action seeking \$3,790.14 arising from a credit card debt which plaintiff purchased from Synchrony Bank. Defendant failed to respond to the complaint and on April 12, 2022, the court entered judgment in the amount of \$4,038.14.

A judgment creditor may seek to garnish a judgment debtor's wages, which is subject to certain conditions. Code of Civil Procedure section 706.050 (hereinafter all statutory references are to the Code of Civil Procedure) sets forth the maximum amount that can be garnished by the creditor. As a leading treatise explains:

Automatic exemption from nonsupport withholding orders: The maximum amount of an individual debtor employee's "disposable earnings" (§ 6:1171) that may be withheld for any work week shall not exceed the lesser of:

- 20% of the employee's disposable earnings for that week; or
- 40% of the amount by which the disposable earnings for the week exceeds 48 times the state minimum wage in effect at the time (\$16 per hour for all employers, as of 1/1/24; see Lab.C. § 1182.12). Where the local minimum hourly wage is greater than the state minimum hourly wage, the local minimum hourly wage in effect at the time the earnings are payable shall be used for this calculation. [CCP § 706.050(a), (c)] (For example, effective July 1, 2023 (and adjusted each July 1st), the minimum wage per hour in Los Angeles is \$16.90; effective July 1, 2024, the minimum wage per hour in Los Angeles increases to \$17.27.)

(Ahart, *Cal. Prac. Guide Enf. J. & Debt* § 6:1170 (TRG June 2024 update) (Ahart).) A debtor may also file a claim of exemption requesting the court to decrease the allowable garnishment because the debtor claims that all or a portion of the wages are exempt under the "necessary for the support of the judgment debtor or the judgment debtor's family supported in whole or in part by the judgment debtor..." (§ 706.51(a).)

There is no precise definition of what is "necessary" for the support of a judgment debtor or the judgment debtor's family. "Necessary" expenses normally include housing costs, food, insurance, automobile costs, etc. However, the court must consider the circumstances

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surrounding each individual case—what is “necessary” in some circumstances may be a luxury in others.

(Ahart at § 6:1179.) The court must take into account all income available to the debtor and the debtor’s family, including the spouse's separate earnings (even if not subject to enforcement of the judgment). (§ 703.115; Ahart at § 6:861.)

The burden of proof is on the judgment debtor to demonstrate that the property to be levied on is exempt in whole or in part. (Code Civ. Proc., § 703.580.) In her Financial Statement, defendant, who is single with no dependents, states that she has a total monthly income of \$7,037.33 with a total monthly income of \$5,097.08 after payroll deductions. She does not explain the reason for the pre-tax deductions of \$232.90, the post-tax deduction of \$276.76 and other deduction of \$55.60. She uses her savings of \$4,500.00 to pay bills. She states that her living expenses are \$6,117.00 per month, and she has to dip into her savings to pay for her mortgage and necessities. She also has credit card defaults in excess of \$100,000.00. She does not want any money garnished from her wages.

In its opposition, plaintiff notes that defendant has not made any payments toward this debt. Plaintiff states that defendant did not submit any proof of her monthly expenses or of her claimed financial hardship. Plaintiff also states that defendant’s monthly expenses are excessive, and funds she allocated toward food/supplies, utilities/telephone, and transportation could be used as payment toward this debt. Plaintiff suggests applying funds from defendant’s savings account toward satisfaction of her judgment debt.

While the court is sympathetic to the high cost of living, in light of this judgment, the court agrees with plaintiff that defendant’s expenses are excessive. For a single person, her expenses for food and other household supplies, utilities and telephone, and transportation are excessive. She should use her savings to pay down this debt rather than pay other unsecured credits. As plaintiff points out, many of her payroll expenses are not subject to exemption. The court also notes that the declaration submitted with the opposition states that plaintiff is requesting a minimum wage garnishment of \$185.00 per pay period from defendant.

Accordingly, the court finds that defendant Jennifer Samujh has failed to carry her burden to prove her entitlement to a claim of a total exemption. The court orders \$160.00 per pay period to be garnished, which is more that defendant wants withheld and less than plaintiff wants withheld, but after reviewing the facts of the case and the applicable law is the amount the court finds appropriate under the circumstances.

The clerk shall transmit a certified copy of this order to the levying officer. The levying officer shall release any retained sums as provided in this Order. For any Wage Garnishment, the levying officer shall notify the employer of any change in the Earnings Withholding Order.

If the tentative ruling is uncontested, it shall become the order of the court. Thereafter, counsel for plaintiff shall prepare a written order consistent with the court’s ruling for the court’s

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signature, pursuant to California Rules of Court, rule 3.1312, and provide written notice of the ruling to all parties who have appeared in the action, as required by law and the California Rules of Court.

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2:00 PM

22-CIV-03372 CYNTHIA WOODMAN VS. UN HUI NAM, ET AL.

CYNTHIA WOODMAN  
UN HUI NAM

MICHAEL J. HROZIENCIK  
VICTORIA A. SILCOX

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CROSS-COMPLAINANT'S MOTION TO FOR ORDER TO COMPEL EXECUTION OF  
AUTHORIZATION BY CROSS-DEFENDANT FOR MOBILE PHONE RECORDS

**TENTATIVE RULING:**

Before the court is defendant/cross-complainant Un Hui F. Nam's motion for order compelling execution of authorization to a third party (AT&T) by plaintiff/cross-defendant Cynthia Woodman to release her mobile phone records. Nam's motion is brought as a motion to compel Woodman's performance in accordance with the court's Minute Order issued following the parties' April 22, 2024 Informal Discovery Conference. The motion is DENIED.

Initially, the court reminds the parties as stated in the Notice of Hearing Location Change served June 21, 2024, Department 4 is now located at the Hall of Justice and Records, 400 County Center, Courtroom 4C, Redwood City, California 94063. The court also notes that the proof of service for the motion is unsigned, but since an opposition has been filed, the court finds the defect waived.

In order to obtain personal telephone records, a subpoena must have a consent to release. (Code of Civ. Proc., § 1985.3, subd. (f). The court has the power to require an authorization by the consumer. (*Negro v. Superior Court*) 230 Cal.App.4th 879, 897.)

In this case, Nam has not met her initial burden to demonstrate that the records are relevant or even reasonably calculated to lead to admissible evidence. Here, Nam incorrectly states that the court ordered the records to be produced. There is no court order. There was an informal discovery conference (IDC) before Civil Commissioner Michael Mau. The court has great respect for Commissioner Mau, but his recommendations are just an attempt to informally resolve a discovery dispute and are not orders. If the IDC does not resolve the dispute, the moving party must bring a motion to compel and meet the requirements to prove that a motion to compel should be granted. That burden has not been met here.

Nam claims Woodman put the calls and texts at issue, but there is no evidence to support the claim—only a bare assertion. The court does not know the information Nam is seeking and the telephone numbers which she believes are relevant. Thus, the court cannot evaluate whether the claim is true and if the records should be produced.

Further the request is overbroad. It is unclear the time period for which the records are being requested. The request is for "5-30 August 2020." Is Nam requesting telephone records from May 30 through August 2020, a three month period of time? If so, the time period is overbroad. If the time period is shorter, it is unclear to the court the time period being requested. Regardless,

there is no showing of why all the telephone records are needed rather than calls to and or from certain numbers should be produced.

The court denies both sides request for sanctions. Based upon Commissioner Mao's suggested resolution, the court does not find that it should award sanctions against Nam. Because the court is denying the motion and privacy rights are implicated, sanctions against Woodman are not appropriate.

If the tentative ruling is uncontested, it shall become the order of the court. Thereafter, counsel for Woodman shall prepare a written order consistent with the court's ruling for the court's signature, pursuant to California Rules of Court, rule 3.1312, and provide written notice of the ruling to all parties who have appeared in the action, as required by law and the California Rules of Court. The court alerts the parties to revised Local Rule 3.403(b)(iv) (amended effective January 1, 2024) regarding the wording of proposed orders.

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2:00 PM

23-CIV-06103 ANA TABLADA VS. MACY'S WEST STORES, INC., ET AL.

ANA TABLADA  
MACY'S WEST STORES, INC.

DIMITRI HURT  
DAVID V. ROTH

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MOTION FOR LEAVE TO AMEND THE COMPLAINT

**TENTATIVE RULING:**

As of July 1, 2024, Department 4 is located at the Hall of Justice, Courtroom 4C, 400 County Center, Redwood City, CA 94063. The hearing was properly noticed for the Central Courthouse because there was no notice provided to the court of Department 4's move. Appearances may be in person in Courtroom 4C or by Zoom if the tentative is properly contested.

Plaintiff Ana Tablada's unopposed Motion for Leave to Amend the Complaint (the "Motion") is GRANTED.

Code of Civil Procedure section 576 provides that:

Any judge, at any time before or after commencement of trial, in the furtherance of justice, and upon such terms as may be proper, may allow the amendment of any pleading or pretrial conference order.

Here, the proposed amendment simply attaches the two causes of action that were identified in and required to be attached to the earlier-filed complaint, but were omitted. No opposition has been filed and thus no prejudice to the amendment has been demonstrated.

Public policy considerations favor the use of the court's discretion to grant a party's request for leave to amend a pleading, as reflected in California case law. For example, the Supreme Court of California in *Norton* stated that "In the matter of amending pleadings, this court has always counseled and sanctioned great liberality. No discussion upon so plain a proposition is necessary." (*Norton v. Bassett* (1910) 158 Cal. 425, 426-427.)

The amended complaint is not deemed filed. It shall be filed within five court days of the notice of entry of order.

If the tentative ruling is uncontested, it shall become the order of the court. Thereafter, counsel for plaintiff shall prepare for the court's signature a written order consistent with the Court's ruling, pursuant to California Rules of Court, rule 3.1312, and provide written notice of the ruling to all parties who have appeared in the action, as required by law and by the California Rules of Court. The court alerts the parties to revised Local Rule 3.403(b)(iv) (amended effective January 1, 2024) regarding the wording of proposed orders.

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2:00 PM

24-CIV-00664 PEACHES NONG JENSEN VS. PERRY LEONARD SEGAL, ET AL.

PEACHES NONG JENSEN  
PERRY LEONARD SEGAL

ANDREW G. WATTERS

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MOTION TO SERVE VIA SUBSTITUTE SERVICE ON THE SECRETARY OF STATE

**TENTATIVE RULING:**

The court DENIES without prejudice plaintiff Peaches Nong Jensen's motion for leave to serve defendant Charon Solutions, Inc. (Charon) by substitute service on the California Secretary of State. The court notes that the proposed order relates to service by publication, but the notice of motion controls.

Plaintiff has obtained a judgment against defendant and now seeks to conduct an order of examination on Charon. Plaintiff has been unable to serve Charon with the notice.

Since Charon is a corporation, plaintiff may serve Charon either by serving an officer of the company or a general manager (Code Civ. Proc., § 416.10, subd. (b) or the agent for service designated with the Secretary of State (*id.*, subd. (a).) Where an agent designated by a corporation for service of process cannot with reasonable diligence be found at the address designated for personally delivering the process, the court may make an order that the service be made upon the corporation through service on the Secretary of State. (Corp. Code, § 1702, subd. (a).)

Plaintiff submits a declaration of Andrew Watters in support of the motion, but on its face it shows a lack of personal knowledge regarding the service attempts and no declarations of attempted service are provided regarding the attempted service. Even if Watters declaration is credited, plaintiff has failed to meet her burden. Plaintiff states in her motion that because defendant Charon is a California Corporation, and defendant Perry Leonard Segal is the owner, principal, and sole agent for service of process, it has tried to serve defendants at the business address, 303 Twin Dolphin Drive, Suite 600, Redwood City, CA 94065. (Motion 3:24 - 4:2, citing Watters Decl. ¶5.) Watters declares at paragraph 6 that "[m]ultiple attempts have been made at defendant's known business address: 7303 Twin Dolphin Drive, Suite 600 Redwood City, CA 94065." Assuming that the reference to a street address of "7303" rather than "303" is a mere typographical error in the declaration, since the correct address is referenced elsewhere and in the body of plaintiff's motion, the statement that attempts have been made at that address is not supported. The attached office log of attempts at service at Exhibit 1 references six attempts, all at O'Neill's Irish Pub, but provides no facts to show why plaintiff believes that Segal frequents the pub. The Non Service Reports attached as Exhibit 2 reference attempts at three locations, none of which are 303 Twin Dolphin Drive, Suite 600, Redwood City, CA 94065.

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Plaintiff therefore has not demonstrated reasonable diligence in attempting to serve the corporate defendant at the address designated for service of process.

Segal, however, has made a special appearance opposing the motion. He states that he failed to obtain notice of the motion and only learned about it because he received a notice of assignment of the case. (Segal Decl., paragraph 3.) However, since no defendant has appeared, no notice needs to be provided. (Code of Civ. Proc., § 1014.) Segal states that he is attorney of record for himself and Charon (Segal Decl., ¶ 2) and lists his address on the caption as 303 Twin Dolphin Dr., Suite. 660, Redwood City, CA 94065. Since attorneys are required to keep their address current with the State Bar (Bus. & Prof. Code, § 6002.1; Cal. Rules of Court, rule 9.9) and the address on Segal's caption matches his address with the State Bar (Watters Decl, ¶ 10), if plaintiff demonstrates through admissible evidence that reasonable attempts were made at this address without success, the court will grant the motion.

The court will allow plaintiff to file a declaration including admissible of service at the Twin Dolphin Dr. address if she properly contests the tentative and by 10:00 a.m. on July 30, 2024, files and emails the evidence to Department 4 and Segal at the address on the caption of his opposition. If admissible evidence is not provided, then plaintiff will need to refile her motion.

If the tentative ruling is uncontested, it shall become the order of the court. Thereafter, counsel for plaintiff shall prepare a written order consistent with the court's ruling for the court's signature, pursuant to California Rules of Court, rule 3.1312, and provide written notice of the ruling to all parties who have appeared in the action as required by law and the California Rules of Court and Segal who has not appeared but the court orders that he be provided notice although he has no right to object and the signed order should also be served on him. The court alerts the parties to revised Local Rule 3.403(b)(iv) (amended effective January 1, 2024) regarding the wording of proposed orders.

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2:00 PM

24-CIV-02825 AMINATA VICKERS VS EDDY CHAN

AMINATA VICKERS  
EDDY CHAN

PRO SE  
MOLLY J ALARCON

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DEFENDANT'S DEMURRER TO PLAINTIFF'S COMPLAINT FOR: (1) BREACH OF CONTRACT; (2) GENERAL NEGLIGENCE; AND (3) INTENTIONAL TORT

**TENTATIVE RULING:**

The Demurrer of Defendant Eddy Chan ("Defendant") to the Complaint of Plaintiff Aminata Vickers ("Plaintiff") is **SUSTAINED WITH LEAVE TO AMEND** based on failure to allege facts sufficient to support a cause of action, for the reasons set forth below.

Demurrer to the First Cause of Action for Breach of Contract is **SUSTAINED WITH LEAVE TO AMEND**. The Complaint appears to be alleging a cause of action for breach of contract. (Complaint, ¶ 8.) Plaintiff fails to attach a cause of action for breach of contract to the Complaint though. The elements of a breach of contract claim are: (1) the contract, (2) plaintiff's performance of the contract or excuse for nonperformance, (3) the defendant's breach of the contract, and (4) the resulting damage to plaintiff. (*Richman v. Hartley* (2014) 224 Cal.App.4th 1182, 1186.) Plaintiff must allege facts to support all elements of this cause of action. Plaintiff must also allege whether the contract was written, oral or implied by conduct. (See Code Civ. Proc., § 430.10, subd. (g).)

Demurrer to the Second Cause of Action for General Negligence and Third Cause of Action for Intentional Tort is **SUSTAINED WITH LEAVE TO AMEND**. The Complaint alleges that Defendant issued Plaintiff a citation at SFO International Airport and provided her with incorrect information regarding the appeal process and being able to present witness testimony at the hearing. On its face then, the allegations support that Defendant may not be held liable under Government Code section 822.2, unless the exception under section 822.2 applies. "A public employee acting in the scope of his employment is not liable for an injury caused by his misrepresentation, whether or not such misrepresentation be negligent or intentional, unless he is guilty of actual fraud, corruption or actual malice." (Gov. Code, § 822.2.) In order to plead within the exception under section 822.2 then, the plaintiff must allege the ordinary elements of fraud, as well as facts showing that the fraud was motivated by corruption or actual malice. (*Curcini v. County of Alameda* (2008) 164 Cal.App.4th 629, 649.) The elements of a cause of action for fraud are: "(a) misrepresentation (false representation, concealment, or nondisclosure); (b) knowledge of falsity (or 'scienter'); (c) intent to defraud, i.e., to induce reliance; (d) justifiable reliance; and (e) resulting damage." (*Lazar v. Sup. Court* (1996) 12 Cal.4th 631, 638.) Fraud must be alleged with specificity. (*Id.* at p. 645.) While less specificity is required when defendant has knowledge of the facts, there still must be more specificity than Plaintiff has alleged. General and conclusory

allegations do not suffice. (*Ibid.*) Thus, Plaintiff must allege facts to support all the elements of fraud, as well as facts that the fraud was motivated by corruption or actual malice.

Defendant's Request for Judicial Notice is GRANTED.

Plaintiff has ten (10) days from service of written notice of entry of order to file and serve a First Amended Complaint. (Cal. Rules of Court, rule 3.1320(g); Code Civil Proc., § 472b.)

If the tentative ruling is uncontested, it shall become the order of the Court. Thereafter, counsel for Defendant shall prepare a written order consistent with the Court's ruling for the Court's signature, pursuant to California Rules of Court, Rule 3.1312, and provide written notice of the ruling to all parties who have appeared in the action, as required by law and the California Rules of Court. The Court alerts the parties to revised Local Rule 3.403(b)(iv) (amended effective January 1, 2024) regarding the wording of proposed orders.

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POSTED: 3:00 PM