TENTATIVE RULINGS
LAW & MOTION CALENDAR
Wednesday, April 29, 2026, 3:00 p.m.
Courtroom 16 – Hon. Patrick M. Broderick
3035 Cleveland Avenue, Suite 200, Santa Rosa

TO JOIN "ZOOM" ONLINE,
Courtroom 16
Meeting ID: 161-460-6380
Passcode: 840359
https://sonomacourt-org.zoomgov.com/j/1614606380?pwd=NUdpOEZ0RGxnVjBzNnN6dHZ6c0ZQZz09

TO JOIN "ZOOM" BY PHONE,
By Phone (same meeting ID and password as listed above):
(669) 254-5252 US (San Jose)

The following tentative rulings will become the ruling of the Court unless a party desires to be heard. If you desire to appear and present oral argument as to any motion, YOU MUST notify the Court by telephone at **(707) 521-6725**, and all other opposing parties of your intent to appear by 4:00 p.m. the court day immediately before the day of the hearing.
Parties in motions for claims of exemption are exempt from this requirement.

PLEASE NOTE: The Court WILL NOT provide a court reporter for this calendar. If there are any concerns, please contact the Court at the number provided above.

1. 24CV00804, Countryside MHP LLC v. City of Cotati

1. Motions for Summary Judgment

Both Plaintiff Countryside MHP LLC ("Plaintiff" or "Countryside") and the City of Cotati ("City") move for summary judgment or, in the alternative, summary adjudication of Plaintiff's first and third causes of action. **The motions are DENIED.**

a. First Amended Complaint

The First Amended Complaint ("FAC") alleges that in March 2014, Plaintiff acquired the Countryside Mobile Home Park ("the Park"), which has 33 spaces. Plaintiff alleges that until recently, the Park was operating a de facto "seniors only" park because the Park's rules stated at least one resident of a mobile home at the Park must be 55 years old or older. The FAC states that since Plaintiff acquired the Park, it has not complied with the requirements of 42 U.S.C. section 3607(b)(2)(iii) because it has not verified the ages of residents at the Park. In addition, Plaintiff asserts neither the Park's leases nor its rules ever guaranteed that the Park would remain seniors only in perpetuity.

In 2023, Plaintiff alleges it made the decision to open the Park to families with children. This decision was driven by the economic challenges faced by the Park and a desire to address the shortage of affordable housing for all age groups. Plaintiff gave Park residents notice of the change on July 26, 2023. A meeting was held with Park residents on August 10, 2023. The effective rules were mailed to residents on September 13 and the "seniors only" sign placed at the Park's entrance was removed on September 19. Plaintiff alleges the new Park rules allowing families with children stated they would become effective on February 15, 2024.

At its September 12, 2023, meeting, the City adopted an interim urgency ordinance making it immediately unlawful for Countryside to convert a senior mobilehome park to any other use, including as an "all ages" mobilehome park. The interim urgency ordinance was supposed to last 45 days, but it was extended for a period of twenty-two months and fifteen days while the City drafted and adopted a permanent ordinance.

On December 12, 2023, the City Council adopted Ordinance No. 923 ("Ordinance 923"), amending the Mobilehome Park Overlay Zone (Section 17.28.080 of the City Code) to establish the "Senior Mobilehome Park Overlay Zone." Ordinance 923 amends sections 17.20.020, 17.28.030, and 17.90.020 of Title 17 (Land Use) of the City Code, and amends the City's Zoning Map, to designate the Park—and only the Park—with the "Senior Mobilehome Park (MHP-S) Overlay Zone.

Plaintiff's FAC alleges causes of action for: 1) Facial and As-Applied Violation of the Fair Housing Amendments Act; 2) Violation of Cal. Gov. Code section 12955 (Disparate Impact); 3) Violation of Cal. Gov. Code section 12955 ("Familial Status Discrimination"); and 4) Violation of Cal. Gov. Code section 65008 (Zoning Discrimination). The City's demurrer to the second and fourth causes of action was sustained without leave to amend, leaving Plaintiff's first and third causes of action.

b. First Cause of Action – Facial and As-Applied Violation of the Fair Housing Amendments Act

Countryside alleges Ordinance 923 violates the federal Fair Housing Amendments Act ("FHAA") both on its face and as applied to Countryside. The FHAA amended the Federal Fair Housing Act ("FHA") to prohibit discrimination on the basis of familial status.

c. Third Cause of Action - Violation of Cal. Gov. Code section 12955

Countryside alleges Ordinance 923 violates Government Code section 12955, part of California's Fair Employment and Housing Act ("FEHA") because it discriminates against or has a disparate impact on protected classes on its face and as applied to Countryside on the basis of familial status.

d. The Federal Fair Housing Act ("FHA") and the Federal Housing for Older Persons Act ("HOPA")

The FHA enacted by Congress in 1968 protects individuals from discrimination in housing on the basis of various protected classes. (42 U.S.C. §3604, et seq.) Initially, it did not protect against housing discrimination on the basis of familial status. However, in 1988, Congress passed the Fair Housing Act Amendments ("FHAA"). (*Ibid*.) The FHAA added "familial status" to the list of protected classes. (*Ibid*.) "Familial status" is defined as "one or more individuals (who have not attained the age of 18 years) being domiciled with—[¶] (1) a parent or another person having legal custody of such individual or individuals; or [¶] (2) the designee of such parent or other person having such custody, with the written permission of such parent or other person. (42 U.S.C. ¶3602(k)(1).)

Chapter 45 of the United States Code, sections 3601 to 3631, apply fair housing standards. Section 3604, under Subchapter 1, makes it unlawful, in part, to refuse to sell or rent a dwelling to any person because of familial status. (42 U.S.C. § 3604.)

The federal Housing for Older Persons Act of 1995 ("HOPA") carves out an exemption from FHA's prohibition on familial status discrimination. 42 U.S.C. section 3607(b)(1) provides: "Nothing in this subchapter limits the applicability of any reasonable local, State, or Federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling. *Nor does any provision in this subchapter regarding familial status apply with respect to housing for older persons."* (42 U.S.C. § 3607(b)(1) [Italics added].)

The HOPA contains three different definitions of "housing for older persons." As applicable to this case, it means: "intended and operated for occupancy by persons 55 years of age or older, and—

> (i) at least 80 percent of the occupied units are occupied by at least one person who is 55 years of age or older;
> (ii) the housing facility or community publishes and adheres to policies and procedures that demonstrate the intent required under this subparagraph; and
> (iii) the housing facility or community complies with rules issued by the Secretary for verification of occupancy, which shall--
>
> > (I) provide for verification by reliable surveys and affidavits; and
> > (II) include examples of the types of policies and procedures relevant to a determination of compliance with the requirement of clause (ii). Such surveys and affidavits shall be admissible in administrative and judicial proceedings for the purposes of such verification.

(42 U.S.C. §3607(b)(2)(C).)

e. Federal Regulations

In addition, Code of Federal Regulations, sections 100.1 through 100.600 pertain to discriminatory housing practices. Section 100.70(b) makes it: "unlawful, because of race, color, religion, sex, handicap, familial status, or national origin, to engage in any conduct relating to the provision of housing or of services and facilities in connection therewith that otherwise makes unavailable or denies dwellings to persons."

Prohibited activities related to dwellings includes: "Enacting or implementing land-use rules, ordinances, procedures, building codes, permitting rules, policies, or requirements that restrict or deny housing opportunities or otherwise make unavailable or deny dwellings to persons because of race, color, religion, sex, handicap, familial status, or national origin."

The Park is subject to FHA's prohibition against discrimination based upon any of the protected classes stated therein, including on the basis of familial status. (24 C.F.R. ¶100.304(b)(6).)

f. Undisputed Material Facts

Countryside acquired Countryside Mobile Home Park ("the Park") in the City of Cotati in March of 2014. (Plaintiff's Undisputed Material Facts ["PUMF"] No. 1; City's Undisputed Material Facts ["CUMF"] No. 1.)

Countryside has never developed, or instructed anyone to develop, procedures for routinely determining whether at least one occupant of each unit is 55 years of age or older, through surveys and affidavits corroborated by reliable documentation (i.e., driver's license; birth certificate; passport; immigration card; military identification; any other state, local, national, or international official documents containing a birth date of comparable reliability; or a certification in a lease, application affidavit, or other document signed by any member of the household age 18 or older asserting that at least one person in the unit is 55 years of age or older). (PUMF No. 2.) Countryside has never established and maintained, or instructed anyone to establish and maintain, a summary of age-verification surveys or affidavits collected at the Park. (PUMF No. 5.)

Until at least August 22, 2024, at least 80% of all mobile homes at Countryside were occupied by at least one resident who is at least 55 years of age. (CUMF No. 4.) Up until September 19, 2023, the Park had a "seniors only" sign at the entrance of the Park. (PUMF No. 8; CUMF No. 3.) On July 26, 2023, Countryside mailed residents an update to the Park's rules and regulations that removed the minimum age requirement for residency at the Park. (CUMF No. 5.) On August 10, 2023, Plaintiff met with residents to discuss the proposed amendments to the Park's Rules and

Regulations. (CUMF No. 6.) On September 13, 2023, Plaintiff circulated to the Park residents the new Rules and Regulations that that did not contain the requirement that at least one resident of a mobilehome at the Park must be 55 years of age or older. (CUMF No. 7.) On September 12, 2023, the City adopted Interim Urgency Ordinance No. 922 ("Urgency Ordinance") (City's Request for Judicial Notice ["CRJN"], Exhibit 1.) Ordinance 923 was adopted on December 12, 2023, and became effective on January 11, 2024. (Plaintiff's Request for Judicial Notice ["PRJN"], Exhibit 2.)

g. "Disputed" Material Facts

The facts purported to be disputed in the parties' separate statement are not really in dispute. Rather, the parties disagree on the legal effect of certain facts.

Countryside asserts that it has never sought to enforce, or instructed anyone to enforce, any requirement that at least one occupant of every mobilehome be 55 years or older, for example, by periodically verifying the identities and ages of the occupants of those homes. (Plaintiff's Material Fact ["PMF"] No. 3.) It further asserts it never established and maintained, or required anyone to establish and maintain, policies of any kind to require that occupants periodically confirm their ages. (PMF No. 4.)

The City does not provide evidence in opposition that Countryside actually did attempt to enforce the age requirement. Rather, it essentially asserts that Countryside was violating its own rules and requirements in not doing so; i.e., it should have complied with HOPA and cannot now undo its own policies and procedures by failing to comply with them.

Countryside's Park Rules and Regulations that were in effect from March 30, 2010, through at least March 13, 2024, mandated that the Park "is operated as housing for older persons"; that "[a]t least one person aged fifty-five or older (55+) shall reside and be a tenant in each mobilehome"; and that "New Tenancies shall include at least one person who will be fifty-five or older (55+) by the beginning date of the Rental Agreement."

Countryside and its predecessor attached these rules to its rental agreements with its tenants, which expressly mandated that the tenant agree to comply. Moreover, when it refinanced its loan for the Park in 2019, Countryside's Multifamily Loan and Security Agreement assured, "[t]o the best of Borrower's knowledge after due inquiry and investigation," that its use of the Park complied "with all applicable statutes, rules and regulations, including all applicable statutes, rules and regulations pertaining to requirements for equal opportunity, anti-discrimination, fair housing, environmental protection, zoning and land use …"; and it further promised in said agreement that it would "comply with all laws, ordinances, rules, regulations and requirements …," expressly including requirements pertaining to fair housing. (City's Response to PMF Nos. 3, 4.)

Countryside asserts that in January of 2023, it decided to formally open the Park to all ages and had, by that time, it no longer marketed any home or space to prospective residents or their agents as an "older persons" community. (PMF, No. 6.)

Again, the City does not provide contradictory evidence. Rather, the City argues that a decision to convert to an all-ages park was not legally possible because Countryside had not complied with the legally applicable procedures set forth in Civil Code section 798.25 to change the Park's rules and regulations. It asserts that the Park's rules in effect from March 30, 2010 through at least March 13, 2024, mandated the Park "is operated as housing for older persons" and that "[a]t least one person aged fifty-five or older (55+) shall reside and be a tenant in each mobilehome"; and that "New Tenancies shall include at least one person who will be fifty-five or older (55+) by the beginning date of the Rental Agreement." The City argues Countryside and its predecessor attached these rules to its rental agreements with its tenants, which agreement expressly mandated the tenant's agreement. The City argues pursuant to Civil Code section 798.25, without homeowner consent, it was not legally possible for the Park's new rules and regulations to go into effect until six months later, on March 13, 2024—after Ordinance 923 had already become effective.

h. City's Motion

As discussed in this section, the City fails to meet its burden to establish that Countryside cannot show that Ordinance 923 is invalid either on its face or as applied to the Park based upon violations of the FHA and the FEHA.

i. Validity of Ordinance – On its Face

1. Municipal Zoning

The City argues Ordinance 923 complies with federal regulations adopted under HOPA that authorize local agencies to create "municipally zoned areas" that are restricted to senior housing.

Countryside argues that Ordinance 923 is unlawful because only a "housing facility or community" itself, such as any of the private mobilehome parks targeted by Ordinance 923, can decide whether to invoke the narrow HOPA exemption and lawfully operate its facility as "housing for older persons."

Federal regulations provide that a municipally zoned area qualifies as a "housing facility or community." (24 Code of Fed. Reg. section 100.304(b)(4).) In the case of *Putnam Family Partnership v. City of Yucaipa, Cal.* (9th Cir. 2012) 673 F.3d 920 the Ninth Circuit Court of Appeals adopting a broader interpretation of the statutorily required intent—acknowledging it extends to a municipality's intent. That case holds that a municipally zoned area qualifies as a "housing facility or community." While the *Chevron* doctrine was recently overturned by the U.S. Supreme Court, Countryside has not provided any reason why this court should depart from HUD regulations and the *Putnam* decision that a zoned area can constitute a housing facility or community.

In *Putnam,* mobilehome parks sued the City of Yucaipa after it adopted a Senior Moblehome Park Overlay District prohibiting parks operating as senior housing to convert to all-age housing. In adopting the ordinance, the city described the need to preserve affordable housing and independent living options for that city's significant senior population, as well as to protect the reliance interests of those seniors who had purchased homes in existing senior-housing parks. (*Id.,* at p. 924.)

The mobilehome park owners filed suit alleging that the ordinance violated the FHAA by forcing them to discriminate on the basis of familial status. (*Ibid*.) They argued that the senior exemption did not apply because the senior exemption requires the housing provider—the park's owner—to intend to operate senior housing, and they lacked this intent. (*Ibid*.)

The district court granted the city's motion to dismiss, holding that the ordinance was covered by the federal senior exemption because, under the HOPA amendments, the required intent to provide senior housing need not be that of the private property owner. (*Ibid*.) Because the city enacted the ordinance, the court held, the required intent to provide senior housing was that of the city rather than the park owners. (*Ibid*.) The court rejected the park owners' arguments to the contrary based on pre-HOPA language. (*Ibid.*) For similar reasons, the court held that the ordinance was not preempted. (*Ibid*.)

The court of appeals affirmed the district court's ruling noting that HOPA removed the FHAA's requirement that the intent be that of the "owner or manager." (*Id.,* at p. 926.) In addition, HOPA specified that the duty to publish and adhere to such policies and procedures lies with the "housing facility or community." (*Ibid*.) The appellate court reviewed the legislative history, which did not offer a reason for the changes. (*Ibid*.)

In 1999, HUD issued regulations interpreting the amended senior exemption. (*Ibid*.) The agency listed specific examples of how various facilities and communities could meet the intent requirement to operate as senior housing. (*Ibid*.) One such example is a zoned area.

"An area zoned by a unit of local government as 'senior housing' satisfies the intent requirement if: [¶] (1) Zoning maps containing the "senior housing" designation are available to the

public; [¶] (2) Literature distributed by the area describes it as "senior housing"; [¶] (3) The "senior housing" designation is recorded in accordance with local property recording statutes; and [¶] (4) Zoning requirements include the 55–or–older requirement or a similar provision." (*Ibid*.) The appendix also explained that, overall, the regulations were intended to reflect HOPA's goal of "protect[ing] senior housing." (*Ibid*.)

When in 1995, HOPA was amended to make compliance easier, House and Senate Judiciary Committee Reports criticized administrative interpretations that made compliance with the senior exemption difficult and thus limited the availability of senior housing. (*Putnam, supra,* 673 F. 3d at 926.) The Senate Report also expressed Congress's desire to clarify whether housing qualifies for the senior exemption and its general purpose "to preserve housing for older persons." (*Ibid.*) While still an exception to the rule against familial status discrimination, it is an important exception based in a real community need for senior housing.

The appellate court affirmed the City of Yucaipa's ordinance did not violate the FHAA if the federal senior exemption applied because the FHAA's ban on such discrimination does not apply to "housing for older persons." (*Id.,* at p. 927.) The appellate court affirmed that the city's intent to provide senior housing was sufficient to meet that exception. (*Id.,* at p. 931.)

The appellate court also affirmed that the city's intent to provide senior housing was sufficient to meet that exception. (*Id.,* at p. 931.) "HUD regulations clearly allow city-zoned senior housing like the City's Overlay District." (*Id.* at p. 928.) A housing facility or community satisfies the senior exemption's intent requirement if, inter alia, "[z]oning requirements include the 55–or–older requirement" and "[z]oning maps containing the 'senior housing' designation are available to the public." (*Ibid*.)

"Section 100.306 provides that in order for a housing facility or community to qualify as housing for persons 55 years of age or older, it must publish and adhere to policies and procedures that demonstrate its intent to operate as housing for persons 55 years of age or older. Section 100.306 also details the factors HUD will utilize to determine whether a housing facility or community has met this intent requirement. The following are examples of housing facilities and communities which satisfy the intent requirement described in §100.306:

"Example 1:

"A mobile home park which takes the following actions satisfies the intent requirement:

"(1) Posts a sign indicating that the park is 55-or-older housing;

"(2) Includes lease provisions stating that the park intends to operate as 55-or-older housing; and

"(3) Has provided local realtors with copies of the lease provisions.

"Example 2:

"An area zoned by a unit of local government as "senior housing" satisfies the intent requirement if:

"(1) Zoning maps containing the "senior housing" designation are available to the public;

"(2) Literature distributed by the area describes it as "senior housing";

"(3) The "senior housing" designation is recorded in accordance with local property recording statutes; and

"(4) Zoning requirements include the 55-or-older requirement or a similar provision." (Implementation of the Housing for Older Persons Act of 1995, 64 FR 16324-01.)

In short, the City may create a zoned area for housing for older persons as long as it complies with HOPA.

2. Ordinance 923's compliance with HOPA

The City argues that Ordinance 923 complies with all three of the necessary HOPA requirements to create senior housing.

Ordinance 923 creates the Senior Mobilehome Park Overlay Zone ("MHP-S"). (Countryside's Request for Judicial Notice ["RJN"] Ex. 2.) The MHP-S is applicable to "the senior mobilehome park that existed in Cotati as of September 12, 2023, and any senior mobilehome parks proposed and permitted following that date." (*Id.,* Section 6.B.)

42 U.S.C. § 3607(b)(2)(C)(i) requires "at least 80 percent of the occupied units are occupied by at least one person who is 55 years of age or older." Ordinance 923 complies with this subsection as it requires 100% of the spaces of mobilehomes in the MHP-S zone to be occupied by at least one person fifty-five years of age or older. (*Id*., section 6.C.2.)

42 U.S.C. § 3607(b)(2)(C)(ii) requires "the housing facility or community publishes and adheres to policies and procedures that demonstrate the intent required under this subparagraph."

It appears the City argues Ordinance 923 complies with this subsection because it requires "[t]he signage, advertising, park rules, regulations, rental agreements, and leases for spaces in a senior mobilehome park in the MHP-S overlay zone shall state that the mobilehome park is a senior mobilehome park and specify that spaces or mobilehomes are only available for rent or lease by individuals such that at least one occupant of the space or mobilehome is fifty-five (55) years of age or older." (RJN, Exhibit 2, Section 6.C.3.) The City does not provide authority or discussion of how this provision meets section (C)(ii)'s standards.

42 U.S.C. §3607(b)(2)(C)(iii) requires: "the housing facility or community complies with rules issued by the Secretary for verification of occupancy, which shall—[¶] (I) provide for verification by reliable surveys and affidavits; and [¶] (II) include examples of the types of policies and procedures relevant to a determination of compliance with the requirement of clause (ii). Such surveys and affidavits shall be admissible in administrative and judicial proceedings for the purposes of such verification."

It appears the City argues that Ordinance 923 complies with this requirement because it requires the owner or operator of each mobilehome park in the MHP-S zone to verify the ages of its residents. (RJN, Exhibit 2, section 6.E.)

It is not clear that this section of Ordinance 923 is applicable to subsection (C)(iii). That subsection requires the "housing facility or community" to verify ages. Post-Ordinance 923, the City claims to be the housing facility or community because it is relying on its creation of the MHP-S to establish the necessary intent to continue operating the Park as senior housing. Yet, Ordinance 923 directs the park's owner or operator to verify residents' ages. The City has not provided authority that, if it is the subject housing facility or community" that it can delegate compliance with HOPA's age verification requirements to the Park's owner.

ii. Application of Ordinance to Countryside

Assuming Ordinance 923 is HOPA compliant, the City argues it is applicable to Countryside. The City rehashes its prior argument that a municipal zone may constitute a "housing facility or community" and an ordinance is valid if it meets HOPA requirements. The City goes on to argue broadly that "[n]othing in the language or HOPA or HUD's implementing regulations prohibit a municipality from zoning an existing senior community (with at least 80 percent senior occupancy) to mandate continued senior residency, even if the owner previously violated the age verification requirements." (Memo., 20:27-28:1.) The City cites *Balvage v. Ryderwood Improvement and Service Ass'n, Inc.* (9th Cir. 2011) 642 F.3d 765 for the proposition that the failure of senior housing to adequately survey its residents in the past does not affect the owner's ability to qualify for the HOPA exemption in the future, so long as it subsequently complied with the verification requirements. This broad statement does not establish that the City may mandate the Park to remain or become senior housing.

Balvage dealt with the issue of how a community that consistently maintained the 80% threshold but failed to comply with HOPA's age-verification requirements can come into

compliance with HOPA and take advantage of HOPA's affirmative defense going forward. *Balvage* merely states that a housing community is not barred from coming into compliance with HOPA and is not liable for a HOPA violation if it establishes it satisfied the HOPA requirements at the time of the alleged violation. (*Balvage v. Ryderwood Improvement and Service Ass'n, Inc.* (9th Cir. 2011) 642 F.3d 765.) *Balvage* does not hold that a city-adopted ordinance can require a facility to become HOPA compliant.

The City does not provide sufficient authority that it may compel a mobilehome facility occupied at least 80 percent by persons age 55 and over to come into compliance with HOPA by way of a City ordinance.

iii. Rule Change

The City argues that pursuant to Civil Code section 798.25(b)'s timeline for changes to park rules and regulations, Countryside's September 2023 amendment to its rules removing age restrictions, could not have become operative until after the City's Urgency Ordinance.

Because the City has not established that either the Urgency Ordinance or Ordinance 923 is HOPA compliant, or that the Park was HOPA complaint at time Ordinance 923 was adopted, these arguments are irrelevant.

iv. Other Arguments

The City goes on to argue that *Putnam* governs this case, that Ordinance 923 is not preempted by federal law, and that Countryside should not be allowed to take advantage of its own wrong in failing to comply with HOPA. These arguments do not establish either that Ordinance 923 is valid on its face or as applied to the Park.

v. FEHA

The City concludes that because Ordinance 923 is lawful under the FHA, it is also lawful under the FEHA. However, the City has not met its initial burden to establish that Ordinance 923 does not conflict with FHA and HOPA.

vi. Conclusion and Order

The City has not met its burden on this motion, which is DENIED.

Plaintiff's counsel is directed to submit a written order to the court consistent with this ruling and in compliance with Cal. Rules of Court, Rule 3.1312.

i. Countryside's Motion

Countryside seeks to establish Ordinance 923 is inapplicable to the Park because the Park never fully complied with HOPA. Countryside argues Ordinance 923 is invalid because it compels the Park to convert to senior housing.

i. Evidence

The evidence submitted by Countryside in support of its motion is the declaration of Ruben Garcia, Vice President of Operations for Waterhouse Management, which managed the Park from 2014 through 2022; the declaration of Nick Ubaldi, Regional Manager of Harmony Communities, which has managed the Park since 2022; and the declaration of Jordan Wadsworth, an owner of Countryside.

Countryside's evidence establishes that it acquired the Park in March 2014 and that it did not develop procedures for determining whether at least one occupant of each unit is 55 years or older. (PUMF Nos. 1, 2.) From 2014 through 2022, the Park was managed by the property management company Waterhouse Management. (Ubaldi decl., ¶3.) On October 15, 2022, property management company, Harmony Communities, took over management of the Park. (*Id.,* ¶4.) Nick Ubaldi is a Regional Manager of Harmony Communities. (*Ibid*.)

From March 2014 through January 2023, the Park had a sign stating it was for senior citizens, and its rules and regulations contained a minimum-age requirement of 55 years or over.

(Ubaldi decl., ¶5.) From 2022 to the present, Countryside still had not developed procedures for routinely determining whether at least one occupant of each unit is 55 years of age or older. (Ubaldi decl., ¶ 6.) Mr. Ubaldi states Countryside has never known with any degree of certainty whether at least 80 percent of its 33 spaces are occupied by at least one person aged 55 years or older. (*Ibid*.)

Countryside has not provided evidence regarding the percentage of residents over the age of 55; or the policies and procedures actually in place. Countryside's motion is based solely upon testimony of its managers' and owner's understanding of Countryside's compliance with HOPA, or its lack thereof. Its evidence says nothing of the written policies and procedures actually in place or how those factor into the necessary intent to have the Park comply with the HOPA exemption as a senior housing facility. In addition, the Park only has 33 spaces. It would appear relatively easy for a manager to know whether the majority of its residences contain an occupant aged 55 or older.

In opposition to Countryside's motion, the City provides evidence that the Park's operative rules and regulations provide that the Park is operated as housing for older persons and required at least one person age 55 or older to reside and be a tenant in each residential unit. (*Id*., Exhibit D.) (City's Exhibit D.) These rules and regulations were issued September 15, 2009, and became effective March 30, 2010. (*Ibid*.) These were incorporated into resident's rental agreements. (*Id.,* Exhibits D, F, G.) They state any new tenancies must include someone 55 years of age or older. (*Ibid*.)

In response to the City's Requests for Admissions, Countryside responded, "Based on initial applications for residency at the park to ensure applicants are at least 18 years of age or older, and on information and belief, at least 80% of all mobile homes there have been occupied by at least one resident at least 55 years of age or older since Plaintiff acquired the park, though Plaintiff has never established any Standard Operating Procedure, or any other policy or procedure, for subsequently and periodically verifying the ages of occupants at the park." (Jarvis decl., Exhibit B, RFA No. 9.)

Countryside's position is dependent upon establishing that it was "legally" an all-ages park because it did not fully comply with HOPA and that, if it was not operating as senior housing, the City could not force it to become senior housing. In support of its position, Countryside cites four unpublished federal district cases and *Putnam Family Partnership v. City of Yucaipa*, (9th Cir. 2012) 673 F.3d 920.

The unpublished district cases are: *Gibson v. County of Riverside* (C.D. Cal. Jan. 4, 2002) 181 F.Supp.2d 1057 (unpublished); *Waterhouse v. City of American Canyon* (N.D. Cal., June 6, 2011, No. C 10-01090 WHA) 2011 WL 2197977 (unpublished)*; Waterhouse v. City of Lancaster* (C.D. Cal. Mar. 13, 2013) 2013 WL 8609248 (unpublished); *1210 Cacique Street, LLC v. City of Santa Barbara* (C.D. Cal., Nov. 21, 2024, No. CV 23-8152 PA (RAOX)) 2024 WL 5277139 (unpublished). Although not binding precedent, state courts may consider relevant, unpublished federal district court opinions as persuasive. (See, e.g., *Olinick v. BMG Entertainment* (2006) 138 Cal.App.4th 1286, 1301.)

The cited cases are sometimes contradictory and are very fact-specific. None clearly lays out the position Countryside asserts, making them unpersuasive as applied to the facts of this case.

ii. *Putnam Family Partnership v. City of Yucaipa*, (9th Cir. 2012) 673 F.3d 920.

Putnam Family Partnership v. City of Yucaipa is addressed as part of the City's motion. *Putnam* supports finding that, despite Countryside failing to have a procedure to verify ages, it still intended to operate as senior housing.

iii. *Gibson v. County of Riverside* (C.D. Cal. Jan. 4, 2002) 181 F.Supp.2d 1057 (unpublished)

In *Gibson,* the County failed to satisfy the statutory requirements which would make its ordinance legal.

iv. *Waterhouse v. City of American Canyon* (N.D. Cal., June 6, 2011, No. C 10-01090 WHA) 2011 WL 2197977 (unpublished)

In *Waterhouse v. City of American Canyon,* the plaintiffs assumed ownership of a mobile home park on May 2, 2005. (*Id*. at *1.) At that time, plaintiffs conducted due diligence to make sure the park was complying with all federal, state, and local laws. (*Ibid*.) Plaintiffs thereby learned that the park had no historical surveys, affidavits, or other records to provide verification that at least 80 percent of the park's spaces were occupied by at least one person 55 years of age or older. (*Ibid*.) According to a declaration of the park's general manager who conducted the due diligence review, the park also did not have procedures in place for routinely determining the occupancy of each unit, had never verified whether at least one occupant was a senior in 80 percent or more units, and "had never operated as" a park for seniors. (*Ibid*.) Plaintiffs endeavored to change the park rules so that the rules would be consistent with the park's existing operation as an all-age park. (*Ibid*.) The city enacted series of moratoria forbidding the conversion of what it considered a senior park to an all-age park and notified plaintiffs that it intended to actively enforce the ordinances prohibiting conversion. (*Ibid*.)

Thereafter, the City of American Canyon advised plaintiffs that they must, consistent with local ordinances, submit a use permit application, conversion impact report, and relocation plan to the city, prior to implementing any conversion. (*Ibid*.) After notice to plaintiffs, the city adopted a Senior Mobile Home Park Overlay Zone, to maintain senior residency status in areas that already maintain at least 80 percent senior residency. (*Ibid*.) Later that same month, the city completed its second survey of all units, which showed that, of the occupied units, 91 percent were occupied by at least one senior. (*Ibid*.)

Plaintiffs filed suit alleging violation of the federal FHA. (*Id.,* at p. *3.) Plaintiffs argued that the park was never a senior park, so there is nothing to "convert," they were simply changing the rules to be consistent with the park's continued practice, and the city was violating the law via its ordinances. (*Ibid*.) The city countered that it had, consistent with federal, state, and local laws, solely been acting to "ensure that plaintiffs' attempted conversion did not conflict with the city's Housing Element polices promoting and preserving senior affordable housing. (*Ibid*.) The city argued that the park has always been a senior park, and that its ordinances have simply been protecting seniors—consistent with federal law—from plaintiffs' attempt at conversion. (*Ibid*.)

The appellate court found that the city's senior housing ordinances violated the FHA because the mobile home park never complied with the FHA's housing for older persons exemption despite it having rules stating it was a seniors-only park. As new owners, plaintiffs attempted to amend the rules to make it clear that the park was open to all applicants on a non-discriminatory basis. "Instead, the City forced them to violate federal law by directing them specifically to lock in their discriminatory rule. The City has caused the park owners to be subject to suit by residents for violating federal law, when they are only attempting to cease violating it—as they have been for years now. The City ordinances are illegal and must be enjoined." (*Waterhouse v. City of American Canyon* (N.D. Cal., June 6, 2011, No. C 10-01090 WHA) 2011 WL 2197977, at *5 [unpublished].) "The housing for older persons exemption does not apply, as the mobile-home park in question has not adhered to policies and procedures that demonstrate an intent to qualify for the exemption or maintained procedures to verify occupancy." (*Id.,* at *1.)

In making its determination, the appellate court noted that the city offered no evidence that during the time the alleged discriminatory acts took place, plaintiffs adhered to the policies or maintained any procedures demonstrating its intent to provide housing for persons 55 years or older. (*Id.* at p. *6.) The appellate court's independent review of the record also showed that it contained no evidence of adherence to policies and procedures demonstrating intent to provide

housing for persons 55 years of age or older during plaintiffs' ownership of the mobile-home park. (*Ibid*.)

There are significant factual differences between *Waterhouse v. City of American Canyon* and the instant case. The most glaring are the court's determination that the ordinance in that case violated the FHA and the City of American Canyon's failure to provide relevant evidence.

v. *Waterhouse v. City of Lancaster* (C.D. Cal. Mar. 13, 2013) 2013 WL 8609248 (unpublished)

In *Waterhouse v. City of Lancaster,* the City of Lancaster provided evidence indicating that the Sherwood mobile home park originally operated as an "Adult Park," and that for most of its time in operation its rules required at least one person aged 55 or older to live in each mobile. (*Id.,* at p. *1.) In 2005 the park proposed to strengthen these rules further, banning all children from Sherwood completely. (*Ibid*.) Before the All–Age Rule went into place, the City of Lancaster passed Ordinance 886, banning conversion of any senior housing facility to an all-age facility, which was its first ordinance allegedly in violation of the FHA. (*Ibid*.) The federal district court found that all of these facts taken together could persuade a reasonable jury that Sherwood satisfied the 80–55 requirement at the time the city passed Ordinance 886. (*Id.,* at p. *17.) They also could persuade a reasonable jury that the information necessary to demonstrate compliance with the 80–55 requirement is among Sherwood's records. (*Ibid*.) Thus, the court found the city satisfied its initial burden of persuasion. (*Ibid*.)

Once a city meets its initial burden, the burden shifts to the housing facility to prove that its park in fact did not meet the age verification requirements for the Senior Housing Exception. (*Ibid*.) In *Waterhouse v. City of Lancaster,* the defendant presented evidence that the park manager did not find any historical surveys or other documentation to show the park met the 80-55 requirement; they referenced discussions indicating that the park did not meet the 80-55 requirement; and they noted that upon a review of the tenant files, the manager discovered that fewer than half had information as to the age of the residents. (*Ibid*.) The court only considered the last of these as actual evidence. (*Ibid*.) The district court found the park manager's statement summarizing the Tenant Files and stating that fewer than half of them had age information was not enough to justify summary judgment. (*Ibid*.) The court noted that "[t]he mere existence of a scintilla of evidence" does not provide a legitimate basis for summary judgment. (*Ibid*.)

vi. *1210 Cacique Street, LLC v. City of Santa Barbara* (C.D. Cal., Nov. 21, 2024, No. CV 23-8152 PA (RAOX)) 2024 WL 5277139 (unpublished)

In *1210 Cacique Street,* the plaintiff purchased the Flamingo Mobilehome Park in Santa Barbara. At the time of the purchase, it was being run as a senior mobliehome park. (*Id.,* at p. *1.) The park's management sent notice of a November 30, 2020, meeting to park residents regarding an amendment of the Park's rules and regulations, including conversion of the park to an all-ages park. (*Ibid*.) On December 15, 2020, the city adopted an interim urgency ordinance prohibiting senior mobilehome parks from converting to all-age parks. (*Ibid*.) A second ordinance extended the first. (*Ibid*.) On November 8, 2021, the city adopted an ordinance amending the city's municipal code to add a Senior Mobilehome Park Overlay Zone and amended the sectional zoning map of the city. (*Id.,* at p. *2.) The senior ordinance requires parks within the SMP Overlay Zone to comply with the age verification requirements set forth in 24 C.F.R. § 100.307. (*Ibid*.) The district court found there was no evidence of discriminatory intent by the city to support any of plaintiff's disparate treatment claims. (*Id.,* at p. *5.) The legislative history of the senior ordinance evidenced that the senior ordinance's purpose was to "ensure continued availability of existing senior mobilehome parks" and was therefore not discriminatory. (*Ibid*.)

The district court also found the senior ordinance was lawful under the senior housing exemption to the FHA's ban on familial status discrimination. (*Ibid*.) The city defendant argued that

the senior ordinance, to the extent that it could be found to discriminate on the basis of familiar status, was lawful under the senior exemption in HOPA. (*Ibid*.)

1210 Cacique Street is distinguished from *Putman*, because in *1210 Cacique Street,* the parties disputed whether the mobilehome park qualified for the HOPA senior exemption prior the enactment of the senior ordinance and its predecessor interim ordinances. (*Ibid*.) As such, the appellate court also considered the intent and operation of the park prior to the enactment of the senior ordinance and its predecessor interim ordinances in determining whether the senior exemption applied.

The court found the city-proffered evidence could persuade a reasonable jury that the park was operating as a senior park in compliance with federal requirements at the time the city enacted the senior ordinance and its predecessor interim ordinances. (*Id.,* at p. *7.) This evidence consisted of an email referring to the park as a senior park; handwritten documentation referring to its conversion to an all-ages park; an email referring to the historical use of the park as senior housing; and a redline comparison between proposed changes to the park's rules and regulations where previous regulations were consistent with senior housing. The park did not present contrary evidence. Instead, it unsuccessfully argued that it had converted to an all-ages park prior to the city implementing its first interim ordinance. (*Ibid*.)

In considering the city's intent after it enacted the senior ordinance, the court found the SMP Overlay Zone met the requirements for the senior exemption because zoning maps containing the senior housing designation were available to the public; literature distributed by the area describes it as senior housing; the senior housing designation is recorded in accordance with local property recording statutes; and zoning requirements include the 55-or-older requirement or a similar provision. (*Id.,* at p. *8.)

Because the defendant city met its burden of persuasion, the burden shifted to the plaintiffs who offered no factual evidence in opposition. (*Ibid*.)

vii. Intent to Operate as Senior Housing

The above case law hints at the issue of whether substantial compliance and/or reliance by Park residents factors into this court's determination. Here, the undisputed facts establish that Countryside held itself out as a "seniors only" park. But testimony by Countryside managers and an owner supports finding that Countryside did not meet the strict HOPA requirements for exemption from FHA. Other cases suggest HOPA is only applicable as an affirmative defense to allegations of a FHA violation, and that a more general intent to operate senior housing is applicable to the instant analysis. This latter issue is also raised when reviewing Title 24 of the Code of Federal Regulations.

Sections 100.300, et seq. of Title 24 of the Code of Federal Regulations, are meant to effectuate the HOPA. (24 C.F.R. §100.300.) Section 100.306 pertains to HOPA's requirement sub-subsection (ii) of section (b)(2)(C) of the U.S.C. requiring the housing facility or community to publish and adhere to policies and procedures that demonstrate the intent to operate senior housing.

Section 100.306(a) includes six nonexclusive factors relevant to a determination of whether a housing facility demonstrates the required intent: (1) The manner in which the housing facility or community is described to prospective residents; (2) Any advertising designed to attract prospective residents; (3) Lease provisions; (4) Written rules, regulations, covenants, deed or other restrictions; (5) The maintenance and consistent application of relevant procedures; (6) Actual practices of the housing facility or community; and (7) Public posting in common areas of statements describing the facility or community as housing for persons 55 years of age or older. (42 U.S.C. §100.306(a).)

These factors include how the housing facility or community is described to prospective residents, advertising, lease provisions, written rules, regulations, covenants, deeds, or other restrictions, public posting in common areas describing the facility as housing for persons 55 years of age or older, and actual practices, among others. (*Mission Valley Oaks LLC v. City of Yucaipa*

(C.D. Cal., Mar. 30, 2010, No. EDCV0902203VAPOPX) 2010 WL 11530290, at *4. [unpublished].) No one factor is controlling and HUD has consistently held that intent is established by the totality of the facts. (*Ibid*.)

In *Mission Valley Oaks,* in granting the city's motion, the court dismissed the plaintiffs' argument that that HOPA should be interpreted narrowly in favor of the paramount policy establishing "familial status" as a protected class, stating, this "ignores the history of the senior housing exemption and HOPA." (*Id.,* at p. *7.) "The exemption cannot be construed so narrowly as to thwart Congress's intent to protect senior housing. Congress made explicit findings that HOPA was necessary because the senior housing exemption was being rendered meaningless by the courts and administrative bodies. HOPA was passed to protect senior housing. 'It would be contrary to the intent of the HOPA to abolish the 'significant facilities and services' requirement only to construct new impediments by strictly construing the remaining requirements." (*Ibid*.)

Here, Countryside argues for strict compliance of HOPA requirements for it to qualify as senior housing and to establish its intent to operate as senior housing. In other words, Countryside seeks to use its failure to comply with all HOPA requirements to support finding that the Park was never really intended to operate as senior housing. Countryside argues that because it did not comply with HOPA, it was always legally operating as an all-ages park despite holding itself out as a seniors only park.

With respect to subsection (b)(2)(C)(i) of 42 U.S.C. section 3607, the only evidence on this issue shows that 80 percent of the occupied units are occupied by at least one person who is 55 years of age or older.

With respect to subsection (b)(2)(C)(ii) of 42 U.S.C. section 3607, the Park provided residents with rules and regulations stating its intent to operate as senior housing and hung a "seniors only" sign at its entrance. Countryside has not provided authority that these facts do not support showing "publication" of rules and/or "policies and procedures."

The procedures described in paragraph (b) of section 100.305 of 64 FR 16324-01 (Implementation of the Housing for Older Persons Act of 1995) state that "a housing facility or community must provide for regular updates, through surveys or other means, of the initial information supplied by the occupants of the housing facility or community. Such updates must take place at least once every two years. A survey may include information regarding whether any units are occupied by persons described in paragraphs (e)(1), (e)(3), and (e)(4) of §100.305."

To satisfy HOPA's verification requirement, a community must verify the age of its residents at least once every two years; the verification must cover all housing units in the community; residents' ages must be verified using reliable documents; a record of the verification, including copies of the relevant documentation, must be maintained in the community's files; and the community must be able to produce that record in response to a complaint of discrimination. (*Balvage v. Ryderwood Improvement and Service Ass'n, Inc.* (9th Cir. 2011) 642 F.3d 765, 777 citing 24 C.F.R. § 100.307(a)-(e).)

To satisfy the requirement, a community must do more than collect some data over some period of time. It must collect complete data for all residences. The data must be current (as of the time of the verification). And the community must compile the data: the community must show that it actually used the data to verify that the community in fact satisfied HOPA's 80 percent occupancy requirement at the time of the verification. (*Balvage v. Ryderwood Improvement and Service Ass'n, Inc., supra,* at p. 778.)

Based upon declarations provided by Countryside, it did not comply with the entirety of subsection (b)(2)(C)(iii) of 42 U.S.C. section 3607, claiming no age-verification process. However, the City provided evidence that 80 percent of Park residents are aged 55 or older. Therefore, there must be some documentary evidence to determine the ages of Park residents.

viii. "Housing Facility or Community"

Countryside argues Ordinance 923 is invalid on its face because the City cannot be the relevant "housing facility or community." This issue was addressed in the City's motion wherein this court determined the City zoning may qualify.

ix. Conclusion and Order

The issue of the intent to operate as a senior housing facility or community is a factual issue weighing all relevant factors. Factual issues are for the trier of fact unless they can be determined as a matter of law. Overall, the relevant factors support finding that the Park was intended to operate as senior housing—as indicated in its Park rules and regulations, signage, and loan documentation. Countryside acknowledges that in January 2023, it decided to abandon operating as housing for seniors and open the Park up to all ages. In July 2023, Countryside published and circulated, to Park residents, an update to the park rules that the park was now open to all ages. On September 19, 2023, it removed the "seniors only" sign at its entrance. Countryside further impliedly acknowledges it operated as senior housing because it concedes it would have been subject to liability for housing discrimination on the basis of familial status for failure to comply with all HOPA's requirements because it did not actively verify the age of its residents.

The issuance of the Park rules and regulations supports finding intent and publication. The rules and regulations regarding senior occupancy, incorporated into leases, supports finding Countryside had policies and procedures. (See 64 RF 16324-01, §100.307(b) ["Such procedures may be part of a normal leasing or purchasing arrangement."]) That at least 80 percent of the units are occupied by someone age 55 or older supports finding that Countryside adhered to senior housing policies and procedures.

Overall, the evidence and authority presented is insufficient for this court to determine Ordinance 923 is either invalid on its face or as applied to Countryside. Accordingly, the motion is DENIED.

City's counsel is directed to submit a written order to the court consistent with this ruling and in compliance with Cal. Rules of Court, Rule 3.1312.

2. 24CV01774, Morisi v. Heneghan

Motion for Alternative Service of Summons on Defendant via email [CCP §413.30] DENIED without prejudice.

Facts

Plaintiff complains that he suffered injuries in an automobile accident which Defendant caused near Occidental, California.

On June 11, 2025, this court granted the application of Plaintiff to serve Defendant by publication in the Press Democrat newspapers. The original request sought publication in the Community Voice, but this court's order required publication in the Press Democrat. Proof of service by publication was filed on July 11, 2025. Defendant subsequently filed a motion to quash service on the basis that he had not resided in this country since June 2024, making service upon him via publication ineffective. Defendant argued that Plaintiff had already known, since at least January 2025, that Defendant no longer resided in California or the United States of America (the "US"). This court granted the motion, determining that Defendant had not resided in the US since June 15, 2024. The court explained that the evidence showed that Defendant had left the US on June 15, 2024, after which time he was in British Columbia, Canada ("BC"), and that Defendant's US visa had been revoked on April 2, 2025.

Motion

In his Motion for Alternative Service of Summons on Defendant via email [CCP §413.30], Plaintiff now moves the court to allow him to serve Defendant by e-mail. He contends that Defendant lives in BC but that he does not know Defendant's physical address and that service through BC's authorized Central Authority for service (the "Authority") will take several months.

Defendant, specially appearing, opposes the motion. He contends that Plaintiff has not demonstrated any efforts to actually locate him or his address in BC as required. He also argues that Plaintiff is merely complaining that the Authority service will take a long time, adding that Authority's own website shows that service will typically be completed within several weeks, not months.

There is no timely reply.

Applicable Authority

CCP section 413.10 governs service of summons and complaint. With respect to service of a party outside the United States, subdivision (c) states, in full,

> (c) Outside the United States, as provided in this chapter or as directed by the court in which the action is pending, or, if the court before or after service finds that the service is reasonably calculated to give actual notice, as prescribed by the law of the place where the person is served or as directed by the foreign authority in response to a letter rogatory. These rules are subject to the provisions of the Convention on the "Service Abroad of Judicial and Extrajudicial Documents" in Civil or Commercial Matters (Hague Service Convention).

Both sides agree that BC, as a part of Canada, is a signatory to the Hague Convention (the "Convention"), which in the Hague Service Convention sets forth requirements for international service of parties.

The Hague Convention governing service in other countries is broad and mandatory where service must be effected abroad. See, e.g., *Lebel v. Mai* (2012) 210 Cal.App.4th 1154, 1163. As the court in *Lebel* explained, 'The scope of the Hague Convention is broad and its application is mandatory in all circumstances " 'where there is occasion to transmit a judicial or extrajudicial document for service abroad.' [Citation.]" [Citation].'

Articles 2 through 6 of the Convention require each signatory country to create and designate a "Central Authority" to receive, and to reject or execute, requests from abroad for service on its citizens.

Failure to comply with the Convention procedures voids the service even if made in compliance with California law, and even if defendant had actual notice of the lawsuit. *Kott v. Sup.Ct.* (1996) 45 Cal.App.4th 1126, 1136; *Dr. Ing. H.C.F. Porsche A.G. v. Sup.Ct*. (1981) 123 Cal.App.3d 755, 762,

Article 1 of the Hague Service Convention states that the Convention does not apply when the address of the person to be served is not known. However, as explained in *Kott v. Sup.Ct*. (1996) 45 Cal.App.4th 1126, at 1139, this provision has been construed to mean the Convention does not apply when defendant's whereabouts cannot be ascertained despite reasonable diligence. In *Kott*, the court found it improper to serve a Canadian defendant by publication because address was "unknown" only because plaintiff "chose to ignore obvious avenues for obtaining the information" and instead only attempted to locate a California address. Similarly, in *Lebel*, supra, at 1161-1162, the court explained that the plaintiff could not avoid application of the Convention where she made no effort to determine defendant's residential, business, or other mailing address in England even though she possessed his email address.

Both parties also agree that pursuant to CCP section 413.30(a), where a party is unable to effect service despite reasonable diligence, that party may seek leave of the court to serve the other party "in a manner that is reasonably calculated to give actual notice to the party to be served, including by electronic mail or other electronic technology, and that proof of such service be made as prescribed by the court."

Discussion

Plaintiff states only vaguely and generally that he has not located any known address for Defendant in BC. He identifies one address but notes that he is not sure if it is actually an address for Defendant. Otherwise, he gives absolutely no information about searches or explains his efforts to locate an address for Defendant. He also does not explain how he obtained the e-mail address which he wants to use.

Defendant provides evidence showing that the BC address which Plaintiff identifies is apparently for other people and his attorney states that the e-mail address which Plaintiff has identified appears to be defunct. She states that a property search showed that the BC address is associated with a Robert and Marieke Burgers and was last known to have been sold on July 28, 2015. As she notes, on the face of this information, this is not consistent with Defendant's move to BC in 2024.

Finally, Plaintiff also admits that there is an established method for serving Defendant through the Authority and that he has not availed himself of this method. He merely complains that this could take several months, but this delay does not alter the fact that the method of serving Defendant is available and Plaintiff admits that he has not attempted to use it. Defendant, moreover, notes that the Authority website actually states that service through it is typically complete in about 2-6 weeks, which conflicts with Plaintiff's claim. Plaintiff does not explain his information. The court also notes that Plaintiff filed this motion on January 2, 2026, and, since it is now the end of April 2026, Plaintiff has waited almost four months to receive a ruling allowing him to serve Defendant by e-mail. During this time, Plaintiff could have attempted to use the Authority and, even if service through that method would have taken "months" as Plaintiff claims, it may have already been completed, or at least closer to being completed, by now. The court finds this to demonstrate a lack of diligence.

Under the circumstances, Plaintiff has not met his burden. He must provide evidence explaining his search for an address for Defendant, with sufficient information for this court to determine whether Plaintiff has made a sufficient, reasonable, and diligent search. He must explain why service through the Authority is not available or impossible.

The court DENIES the motion.

Conclusion

The court DENIES the motion. This order is without prejudice to Plaintiff seeking such, or similar, relief again, should he sufficiently demonstrate a proper basis for the order requested. The prevailing party shall prepare and serve a proposed order consistent with this tentative ruling within five days of the date set for argument of this matter. Opposing party shall inform the preparing party of objections as to form, if any, or whether the form of order is approved, within five days of receipt of the proposed order. The preparing party shall submit the proposed order and any objections to the court in accordance with California Rules of Court, Rule 3.1312.

3. SCV-271089, Garcia v. Ortega

Plaintiff Elizabeth Garcia moves for an order pursuant to Cal. Rules of Court, Rules 3.766 and 3.769, and Code of Civil Procedure section 382 for an order: (1) Granting preliminary approval

of the Joint Stipulation of Class Action and PAGA Settlement ("Settlement" or "Agreement") reached between Plaintiff and Defendants, Lola's Market, Inc. and David Ortega (together "Defendants"); (2) Approving the proposed Notice of Class Action Settlement ("Class Notice"); the proposed Request for Exclusion form, and the proposed deadlines for the settlement administration process; (3) Provisionally certifying the proposed class for settlement purposes; (4) Appointing Plaintiff as the Named Plaintiff for the Class; (5) Appointing Matern Law Group, PC ("MLG") as Class Counsel for Settlement purposes; (6) Appointing Phoenix Class Action Administration Solutions ("Phoenix") as the Settlement Administrator; (7) Directing Defendants to furnish the names, last known mailing address, full social security numbers, and dates of employment of all Class Members to the to the Administrator no later than 21 calendar days of Defendants' receipt of notice of entry of Preliminary Approval; and (8) Scheduling a Final Approval hearing.

The motion is GRANTED. The final fairness hearing is hereby set for September 30, 2026, at 3:00 p.m., in Department 16. The court will sign the proposed order.