TENTATIVE RULINGS
LAW & MOTION CALENDAR
Wednesday, June 10, 2026, 3:00 p.m.
Courtroom 16 – Hon. Elliot L. Daum for 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. 24CV00531, Knoop v. Knoop

1. Motion to Compel – Defendant Taylor Knoop

Plaintiffs Anthony Knoop and Heidi Knoop ("Plaintiffs") move for an order compelling defendant Taylor Knoop ("Defendant") to furnish responses to Plaintiff's Form Interrogatories, Set One and Set Two; Special Interrogatories, Set One; and Requests for Admissions, Set One. Plaintiffs request sanctions in the amount of $1,883.63.

On March 11, 2026, Plaintiffs served Defendant with their Form Interrogatories, Sets One and Two; Special Interrogatories, Set One; and Requests for Admissions, Set One. (Glaubiger decl., ¶¶5, 6, Exhibits B-E.) Despite responses being due, as of the date of the motion, none were provided. (*Id.,* ¶7.)

Plaintiffs' attorney spent one hour on this motion. (*Id.,* ¶8.) His hourly rate is $450. (*Ibid*.)

Having established the discovery requests were properly served and Defendant failed to respond, **the motion is GRANTED. Sanctions are granted in the amount of $533.63. As jury trial is set for July 10, 2026, Defendant Taylor Knoop is directed to provide responses, without objections, to Plaintiffs' Form Interrogatories, Set One and Set Two; Special Interrogatories, Set One; and Requests for Admissions, Set One, within 10 days of the service of this order, and to pay sanctions within 30 days of service of this order.**

Plaintiffs' counsel is directed to submit a written order to the court consistent with this ruling.

2. Motion to Compel – Defendant Carmen Knoop

Plaintiffs Anthony Knoop and Heidi Knoop ("Plaintiffs") move for an order compelling defendant Carmen Knoop ("Defendant") to furnish responses to Plaintiff's Form Interrogatories, Set One and Set Two. Plaintiffs request sanctions in the amount of $1,883.63.

On March 11, 2026, Plaintiffs served Defendant with their Form Interrogatories, Sets One and Two. (Glaubiger decl., ¶5, Exhibits B, C.) Despite responses being due, as of the date of the motion, none were provided. (*Id.,* ¶6.)

Plaintiffs' attorney spent one hour on this motion. (*Id.,* ¶7.) His hourly rate is $450. (*Ibid*.)

Having established the discovery requests were properly served and Defendant failed to respond, **the motion is GRANTED. Sanctions are granted in the amount of $533.63. As jury trial is set for July 10, 2026, Defendant Carmen Knoop is directed to provide responses, without objections, to Plaintiffs' Form Interrogatories, Set One and Set Two, within 10 days of the service of this order, and to pay sanctions within 30 days of service of this order.**

Plaintiffs' counsel is directed to submit a written order to the court consistent with this ruling.

2. 24CV04493, Todt v. Simply Solar

Defendant Simply Solar ("Defendant" or "Simply Solar") moves for summary judgment against Plaintiff Anne Todt ("Plaintiff") or, in the alternative, summary adjudication on the grounds that there is no triable issue as to any of Plaintiff's causes of action for: (1) disability discrimination in violation of California's Fair Employment and Housing Act ("FEHA"); (2) age discrimination in violation of FEHA; (3) retaliation in violation of FEHA; (4) failure to prevent discrimination in violation of FEHA; (5) failure to accommodate in violation of FEHA; (6) failure to engage in the interactive process in violation of FEHA; and (7) wrongful termination in violation of public policy. Defendant argues there remain no triable issues of fact as to any of Plaintiff's causes of action, as the evidence conclusively establishes that Defendant is not liable for any of Plaintiff's causes of action. In Defendant's memorandum, they also argue for summary adjudication of Plaintiff's request for punitive damages.

1. The Complaint

On July 30, 2024, Plaintiff filed a complaint alleging causes of action for: (1) disability discrimination in violation of California's Fair Employment and Housing Act ("FEHA"); (2) age discrimination in violation of FEHA; (3) retaliation in violation of FEHA; (4) failure to prevent discrimination in violation of FEHA; (5) failure to accommodate in violation of FEHA; (6) failure to engage in the interactive process in violation of FEHA; and (7) wrongful termination in violation of public policy.

Plaintiff was employed as a sales department representative for over two (2) years from approximately June 2021 to September 29, 2023. (Complaint, ¶5.) Plaintiff alleges that during her employment with Defendant she suffered a disability consisting of extreme back pain and that she requested a standing desk as a reasonable accommodation. (*Id.,* ¶¶6, 7.) At the time of her termination, Plaintiff was 53 while her coworkers were mostly in their 20's. (*Id.,* ¶¶8, 11.)

2. Objections

Plaintiff's objections to the Johnson declaration are overruled.

Defendant's objections in reply to Plaintiff's evidence are overruled.

3. First Cause of Action – Disability Discrimination in Violation of FEHA

Plaintiff alleges Defendant discriminated against her by failing to reasonably accommodate her disability, refusing to engage in the interactive process, and by terminating her employment.

Subdivision (a) of Government Code section 12940 provides that it is an unlawful employment practice for an employer, "because of the physical disability... of any person, to ... discriminate against the person in compensation or in terms, conditions, or privileges of employment."

To establish a prima facie claim for disability discrimination, a plaintiff must prove: (1) she suffered from a disability; (2) she was otherwise qualified to do her job; and (3) she was subjected to an adverse employment action because of her disability. (*Faust v. Cal. Portland Cement Co*. (2007) 150 Cal.App.4th 864, 886; Gov. Code §§ 12940, subds. (m), (n).)

California has adopted the three-stage burden-shifting test established by the United States Supreme Court for trying claims of discrimination, including age discrimination, based on a theory of disparate treatment. (*Guz v. Bechtel Nat. Inc.* (2000) 24 Cal.4th 317, 354.) This so-called *McDonnell Douglas* test reflects the principle that direct evidence of intentional discrimination is rare, and that such claims must usually be proved circumstantially. Thus, by successive steps of increasingly narrow focus, the test allows discrimination to be inferred from facts that create a reasonable likelihood of bias and are not satisfactorily explained. (*Id.,* at p. 355.)

The specific elements of a prima facie case may vary depending on the particular facts. Generally, the plaintiff must provide evidence that (1) she was a member of a protected class, (2) she was qualified for the position she sought or was performing competently in the position she held, (3) she suffered an adverse employment action, such as termination, demotion, or denial of an available job, and (4) some other circumstance suggests discriminatory motive. (*Ibid*.)

Defendant argues Plaintiff's claim fails because she was not qualified to do her job, and she cannot show a causal connection between her disability and her termination.

a. Qualified to Do Job

In support of its argument that Plaintiff was not qualified to do her job, Defendant presents evidence that Plaintiff complained that she was not getting good leads and that she discussed a lack of viable customers at one point, as well as discussing how much pain she was in (Defendant's Separate Statement ["DSS"] No. 9); that in November 2021 she got an overall performance review of 2.90 and in March of 2022 an overall performance review of 2 (DSS No. 13); that her attendance records shows she worked an average of 36-37 hours per week instead of 40 (SS 15); and that she missed a Zoom meeting and had some technical difficulties with her computer (SS 16).

Defendant has not provided authority that the above facts establish, as a matter of law, that Plaintiff was not qualified to do her job. Notably the November 2021 review also had very positive comments about her performance such as that she "is amazing when it comes to communication. She can build rapport with any customer and is very personable." (DEA 6.) The March 2022 performance evaluation was during the time she was transitioning to the inside sales job, which she was promoted to because of previous successes and which required video conferences with potential customers. (DEA 7.) Plaintiff testified that she was not comfortable with video calls, so she went back to the SDR team. (DEA 1, 65:8-66:5.) Defendant has failed to meet its burden on this issue.

b. Causation

Defendant argues Plaintiff cannot establish a causal connection between her disability and any adverse action. Defendant presents evidence that supervisor Landon Scott sent Plaintiff cookies at Plaintiff's home; no employees had an issue with her exercising in the office; and, that her supervisors approved her time off requests and communicated understanding of her needs. (SS 17, 29.) Absent is legal authority that these facts allow finding that Plaintiff cannot establish causation.

i. Legitimate Reason for the Layoff

Defendant argues that it has articulated a legitimate reason for the layoff. The evidence in support is mostly from the declaration of Cliff Johnson, the Chief Financial Officer and Human Resources Manager for Defendant. (Johnson decl., ¶1.)

In July 2023, Simply Solar's management and board determined that it was in Simply Solar's best interest to undertake a "reduction in force" ("RIF") – that is, a formal process to eliminate positions and lay off several employees due to financial constraints, poor financial performance, low revenue, and reduced business in the preceding year. (Johnson decl., ¶3.) Simply Solar's decision to undertake a RIF came after four months of extremely depressed sales for Simply Solar, and issues with Simply Solar's main material vendor. (Johnson decl., ¶4.) Simply Solar, and its management, made every effort to avoid the RIF, until Simply Solar's primary vendor froze Simply Solar's credit line, which then required Simply Solar to entirely restructure its business. (Johnson decl., ¶5.) To assist in executing the RIF fairly and accurately, Mr. Johnson prepared a Labor Summary Efficiency spreadsheet with Simply Solar's management team. (Johnson decl., ¶ 6.) The spreadsheet analyzed the efficiency and cost of employees. (Johnson decl., ¶ 6.) In September and October 2023, Simply Solar undertook the RIF and began to lay off employees in a first round of layoffs. (Johnson decl., ¶ 7.) In November and December 2023, Simply Solar continued the RIF and separated employees in a second round of layoffs. (Johnson decl., ¶ 8.) On or about March 27, 2024, Mr. Johnson prepared a Layoff Report, summarizing layoffs that had occurred in the past 12 months. (Johnson decl., ¶ 9.) The Layoff Report shows that 26 employees were laid off in the RIF due to lack of work, including Plaintiff. (*Id.,* Exhibit 3.) This comprised approximately 24% of Simply Solar's entire workforce, managerial or otherwise. (Johnson decl., ¶ 9.) Most employees laid off were under 40 years old. (*Ibid*.) Only 3 of the 26 employees laid off were 40 years old or older. (*Ibid*.) As of April 2024, Simply Solar continued to struggle financially and was still in the restructuring phase. (Johnson decl., ¶ 10.) Simply Solar could not replace any non-essential roles due to its financial position. (*Ibid*.) Plaintiff was employed with Simply Solar from June 24, 2021, to September 29, 2023. (Johnson decl., ¶ 11.) Simply Solar's records reflect that her employment ended due to "Layoff / No Available Work" because she was laid off due to a downturn in Simply Solar's business. (*Ibid*.)

Plaintiff argues the Layoff Report shows 5 employees out of the 26 were over 40. In this court's review, only 3 of the 26 employees were 40 years or older at the time they were laid off. However, one employee was almost 40 at the time.

If an employer provides a legitimate, nondiscriminatory reason for the employee's termination, the presumption of discrimination disappears and it becomes the Plaintiff's burden to attack the employer's proffered reasons as pretexts for discrimination, or to offer any other evidence of discriminatory motive. (*Texas Dept. of Community Affairs v. Burdine* (1981) 450 U.S. 248, 253; see also *Guz v. Bechtel Nat. Inc.* (2000) 24 Cal.4th 317, 356 [citing *Texas Dept., supra.*]). To avoid summary judgment, the plaintiff must do more than establish a prima facie case and deny the credibility of the defendants' witnesses. She must produce "specific, substantial evidence of pretext." (*Horn v. Cushman & Wakefield Western, Inc.* (1999) 72 Cal.App.4th 798, 807.) An issue of fact can only be created by a conflict of evidence. (*Ibid*.) It is not created by speculation or conjecture. (*Ibid*.)

In opposition, Plaintiff argues that the record creates overwhelming triable issues as to whether Defendant's purported reduction-in-force justification is pretextual. Plaintiff argues Defendant's witnesses gave fundamentally inconsistent accounts of who made the termination decision and why.

Plaintiff points to the deposition of Ashton Hethcote. Ms. Hethcote testified that she, along with all other supervisors, were informed that the company's financial standing would require layoffs. (Hethcote depo., 26:11-24.) Due to financial issues, Ms. Hethcote was asked to select two people from the SDR team and marketing team. (*Id.,* 28:21-29:2.) At that time, there were six people on SDR and marketing teams: Greg, Landon, Dianna, Plaintiff, Steven, and Mario. (*Id.,* at

29:14-18.; 84-85.) Cliff told Ms. Hethcote to select the two by thinking about the company's revenue and how the employee's roles relate to how they build revenue for the company. (*Id.,* 30:7-31:3.) In making the decision, Ms. Hethcote thought about the team but did not reference any documents or talk to anyone. (*Id.,* 32:3-16.) She considered the entire team's performance in relation to how much revenue they were driving, such as how many appointments the team booked month over a month. (*Id.,* 32:17-25.) Looking at the whole team, Ms. Hethcote decided who to let go based upon "availability." (*Id.,* 33:2-34-17.) She explained: "At the time, there was constant dialogue with [Plaintiff] on the team about her pending move to Florida and that she would need to take a significant amount of time off in the coming months. And so her availability was not the same as everyone else to a job that she was required to be at full time." (*Id.,* 33:6-11.) Ms. Hethcote explained he thought the question of availability was the only factor that was a fair comparison. (*Id.,* 34:18-23.) Ms. Hethcote also picked Steven for the layoff based upon availability because he lived internationally and he worked nighttime hours. (*Id.,* 35:7-24.) He also planned on moving back to the US and communicated he would not likely be continuing the job after the move. (*Id.,* 36:4-7.)

The evidence supports finding that Defendant was aware of Plaintiff's disability from the beginning of her employment in June 2021 and that she was allowed to work seven hours instead of eight to accommodate it. When Plaintiff first started at Simply Solar, she informed supervisors Chris Samuel and Adam Temple of her back conditions and requested to work reduced hours while working from the office. (AUMF 9.) That request was granted and Plaintiff worked seven-hour days to accommodate her disabilities during her first seven months of employment. (AUMF 10-11.) After transitioning to remote work beginning in approximately January 2022, Plaintiff worked eight-hour days. (AUMF 19.) When she worked in the office, Plaintiff had a desk that allowed her to stand. (SS No. 23.) Plaintiff exercised in the office to relieve her symptoms, which nobody objected to. (SS Nos. 27, 29.) Plaintiff was permitted to get up and walk around as frequently as she wished. (SS No. 28.) The office also had a gym for Plaintiff to use. (SS No. 30.)

Plaintiff argues that Ms. Hethcote's testimony is inconsistent with testimony from Cliff Johnson. Mr. Johnson testified to the loss of $3 million in equity in 2022 into 2023, the massive drop in sales in 2023, the lack of that turnaround, and the overall cash and revenue flow of the business. (Johnson depo., 68:18-22.) These were listed in a working document utilized to try to determine the financial results of certain employment cuts across the company as part of the RIF. (Johnson depo., 69:4-9.) Based upon their analysis, they determined how many people they thought each department could support over time. (*Id.,* 79:2-25.) Based upon their analysis and discussions, they determined to cut two employees from the SDR team. (*Ibid*.) Mr. Johnson testified that the management team looked at the overall costs and where they could save the most versus each employee's ability to produce revenue into the future. (*Id.,* 81:105.) With respect to Plaintiff, he testified that his recollection was that she was selected based upon a "combination of ability to produce in the future with the direction that the SDR team was going with" meaning those who would produce the greatest return on investment. (*Id.,* 82:3-83:12.) Mr. Johnson testified that he, Jake, and Sean made the decision to select Plaintiff for layoff, likely in consultation with Ms. Hethcote. (*Id.,* 83:13-22.) Reductions were made at every department level to keep the business from having to file for bankruptcy. (Johnson depo., 86:19-24.) Mr. Johnson testified that Sean directly supervised Ashton Hethcote, who Johnson had discussions with about the SDR staff, and that Johnson and the executive team were aware of leads and sales being produced within the SDR team. (*Id.,* 91:12-94:13.)

Ms. Hethcote testified that she selected Dianna from the marketing team. (Hethcote depo., 85:17-25.) Dianna was selected because her role was the only non-revenue driving role. (*Id.,* 86:1-2.) When asked why Ms. Hethcote used different criteria when deciding which individual within the marketing team to let go versus the SDR team, Ms. Hethcote responded, "I'm not sure." (*Id.,* 86:3-

6.) Ms. Hethcote later explained that she did not have attendance as a metric to use for the marketing team. (*Id.,* 86:10-19.) By the time Ms. Hethcote was deposed, she did not remember a lot of the details of who worked when and for how long. She testified she did not have any complaints about Plaintiff's performance or her taking PTO. (*Id.,* 89, 92:1-8.)

Plaintiff also argues that it is suspicious that the "Layoff Report" was prepared after the layoffs occurred. However, Mr. Johnson testified it was created because Plaintiff's requested the information. (Johnson depo., 118:19-119:10.) On or about March 27, 2024, Mr. Johnson prepared the Layoff Report, summarizing layoffs that had occurred in the past 12 months. (Johnson decl., ¶ 9.) The Layoff Report shows that 26 employees were laid off in the RIF, including Plaintiff, which comprised approximately 24% of Simply Solar's entire workforce, managerial or otherwise. (*Ibid*.)

Simply Solar's employee handbook provides that employees seeking a reasonable accommodation for a disability "should submit a written or verbal request to their manager or the HR Department." (AUMF 31.) Plaintiff only stated she told her supervisors—no mention is made of a request to her manager or the HR department.

Plaintiff also argues a job advertisement Plaintiff saw after she was terminated supports her termination was pretextual. Plaintiff was terminated on September 29, 2023. (Complaint, ¶ 5.) Attached to Plaintiff's declaration is what appears to be a job advertisement listed by Defendant dated October 1, 2023, for a "Sales Development Representative – Bilingual." (Plaintiff's decl., Exhibit I.) The posting was for a job in Petaluma. (*Ibid*.) Plaintiff argues because Defendant posted an opening for the "same SDR position" in Petaluma, a reasonable jury could conclude that Defendant did not eliminate Plaintiff's role at all but instead terminated Plaintiff and afterwards attempted to justify the decision through post-hoc documentation. However, Plaintiff's position does not indicate it was bilingual. (Plaintiff's declaration, Exhibit B.) Nor does Plaintiff provide any evidence that someone was actually hired based upon that posting.

The main dispute appears to be whether Plaintiff requested a standing desk for use remotely at her home. Plaintiff states she did. Plaintiff states she made numerous verbal requests and, perhaps, one written request. (Plaintiff's depo., 71:5-74:16.) Defendant cites evidence that Plaintiff did not want the desk at the time right before she thought she was moving because she did not want to drag it across the county with her when she moved. Plaintiff also states that she asked for one so many times she gave up on it. (SS No. 31.) She testified she only received silence in response. (AUMF 23.)

This case is similar to *Horn v. Cushman & Walkefield Western, Inc., supra,* in that Plaintiff's case is entirely speculative as there is nothing tangible Plaintiff can point to which indicates any animus towards Plaintiff based upon her disability. Plaintiff points to no remarks, actions, or context that supports finding animus.

In *Horn, supra,* the plaintiff, Horn, argued that defendant C&W terminated him because of his age. The trial court granted summary judgment in favor of C&W finding no evidence to suggest Horn's employment was motivated by age animus or that C&W's reason for terminating him was pretextual. Horn consistently had positive performance evaluations which included some constructive criticism. (*Id.,* at p. 803.) In 1994, C&W undertook a company-wide reorganization. (*Ibid*.) At that time, Horn reported to "Renard" and "Van Allen," the latter being a newly hired national communications director. (*Ibid*.) While Horn was considered for the restructured regional communications manager position, Renard and Van Allen decided Horn was not as well qualified in sales and marketing as the person they ultimately selected. (*Id.,* at p. 804.) In attempting to establish his termination was a pretext for age discrimination, Horn argued that Van Allen, not Renard, who was only a few years younger than Horn, was the actual force behind his termination and that she harbored discriminatory animus because of his age. (*Id.,* at p. 808.) The appellate court determined

that Horns' arguments were entirely speculative. (*Ibid*.) Horn referred to evidence that Renard had discussions with Van Allen about Horn 60 to 90 days before Horn was terminated and that Renard and Van Allen had between 3 to 10 discussions regarding Horn's "lack of urgency, lack of strategic focus" and his "lack of sensitivity to the marketplace, the client driven nature of Cushman & Wakefield ...." (*Ibid*.) These facts were undisputed and did not provide "substantial evidence" from which one could infer that Van Allen made the decision to terminate Horn in view of Renard's clear testimony made the decision. (*Ibid*.) Nor was there any evidence it related to age.

Plaintiff's case for discrimination based upon a disability is based on speculation and conjuncture. Defendant has laid out a solid, legitimate nondiscriminatory reason for Plaintiff's termination. The fact that Plaintiff's direct supervisor selected Plaintiff for lay off based upon the sole criterion of availability and the executive team considered broader factors is insignificant as neither suggests animus towards Plaintiff because of her disability. The evidence presented indicates Plaintiff's disability was never an issue during her employment. Even assuming as true Plaintiff's numerous requests for a standing desk, this is insufficient to establish animus or pretext. It is not "substantial evidence" of a true pretextual reason for the termination of Plaintiff's employment as there is no evidence it was in any way a factor in Defendant's decision to select Plaintiff as part of the RIF. Any argument that Defendant's managers or supervisors secretly harbored animus towards Plaintiff based upon her disability is speculative.

Based upon the foregoing, Defendant's motion for summary adjudication as to this cause of action is granted. Defendant has provided a legitimate non-discriminatory reason for the termination of Plaintiff's employment. Plaintiff has not provided evidence establishing Defendant's reason was mere pretext for a discriminatory motive.

4. Second Cause of Action – Age Discrimination in Violation of FEHA

Plaintiff alleges her age was a substantial motivating factor in her termination.

The same burden-shifting test applies to claims for age discrimination. (*Guz v. Bechtel Nat. Inc., supra,* 24 Cal. 4th at pp. 354-355.) Gov. Code section 12926(b) defines "age" as "the chronological age of any individual who has reached a 40th birthday."

Defendant makes the same arguments—that Plaintiff was not qualified to do her job and that she cannot establish causation. As noted above, Defendant has not met its burden to establish Plaintiff was not qualified to do her job. Defendant's evidence in support of its argument that Plaintiff cannot show causation is the same for this cause of action—Defendant's financial struggles.

As noted above, the Layoff Report shows that 26 employees were laid off in the RIF, including Plaintiff, which comprised approximately 24% of Simply Solar's entire workforce, managerial or otherwise. (Johnson decl., ¶ 9.) Most employees laid off were under 40 years old. In fact, only 3 of the 26 employees laid off were over 40 years old. (*Ibid*.) In addition, Plaintiff never reported age discrimination to anyone at Simply Solar. (SS. No. 40.)

The age-related issue pertains to Plaintiff's use of technology. Plaintiff's performance reviews indicated that she struggled with the use of new technologies. Plaintiff disputes this. She testified that she did not have any problems learning the software used by Defendants: Salesforce, Slack, Chilipiper, and Five9. (Plaintiff's depo., 53:23-55:4.) She argues that London and Hethcote raised unfounded concerns about her use of technology—which she argues raises an inference of age discrimination.

The ability to learn software is not necessarily an age-based concern. Only Plaintiff linked the issue to her age. She testified that they made her feel like a dinosaur, like she was too old to figure the software out. However, Plaintiff did not testify that anybody accused her of not being unable to figure out the software because of her age. No evidence is provided that anyone even made a rude comment about Plaintiff's use of technology let alone one that could be construed as

age-related. Review of the Slack messages does not indicate any connection to Plaintiff's computer software usage and her age. The messages show overwhelming support for Plaintiff. In addition, on top of not making any age-related comments, there is no evidence that Plaintiff's perceived inability to adapt to software changes was the cause of Plaintiff's termination. That leap is conjecture and speculation.

Based upon the above, Defendant's motion for summary adjudication on this cause of action is granted. Defendant has provided a legitimate non-discriminatory reason for the termination of Plaintiff's employment. Plaintiff has not provided evidence establishing that reason was mere pretext for a discriminatory motive.

5. Retaliation in Violation of FEHA

Plaintiff alleges Defendant terminated her employment in retaliation for requesting reasonable accommodation.

Retaliation is a form of discrimination actionable under section 12940, subdivision (k). (*Taylor v. City of Los Angeles Dept. of Water & Power* (2006) 144 Cal.App.4th 1216, 1240.) To establish a prima facie case, the plaintiff must show that she engaged in a protected activity, her employer subjected her to adverse employment action, and there is a causal link between the protected activity and the employer's action. (*Flait v. North American Watch Corp.* (1992) 3 Cal.App.4th 467, 476.)

i. Protected Activity

Defendant argues Plaintiff did not engage in a protected activity because her supervisors stated she did not request a standing desk. However, Plaintiff testified that she did ask for a standing desk on numerous occasions. (Todt Decl. ¶ 18; Todt Depo. at 71:5–74:16.) This is a disputed material fact.

ii. Causal Link

Defendant argues that Plaintiff cannot establish a causal link. Defendant only points to the fact that Plaintiff was allowed a reduced work schedule when she first started. This does not meet Defendant's burden on this issue.

iii. Pretext

Defendant argues that Plaintiff cannot establish pretext. As discussed above, Defendant has provided a legitimate non-discriminatory reason for terminating Plaintiff's employment. In opposition, Plaintiff makes the same arguments that Defendant's witnesses gave inconsistent accounts of who made the termination decision and why; the "Florida move" or unavailability argument, is riddled with implausibilities; the decision-making process lacked any objective basis; and the Layoff report was made in response to Plaintiff's request. All of these arguments skew the evidence presented by Defendant or fail to take into account the entire testimony given by a witness.

In her opposition to Defendant's argument on causation, Plaintiff argues that the closeness in time between Plaintiff's written request for an accommodation and the adverse action is circumstantial evidence of a causal link. Pretext "may be inferred from the timing of the company's termination decision, by the identity of the person making the decision, and by the terminated employee's job performance before termination." (*Nazir v. United Airlines, Inc.* (2009) 178 Cal.App.4th 243, 271–272.) However, temporal proximity alone is not sufficient to raise a triable issue as to pretext once the employer has offered evidence of a legitimate, nondiscriminatory reason for the termination. (*Arteaga v. Brink's, Inc.* (2008) 163 Cal.App.4th 327, 353.)

Plaintiff testified that throughout her time working for Defendant she requested a standing desk for home use from her supervisors. She testified these requests were met with silence. Hethcote testified she did not recognize that Plaintiff was requesting a standing desk.

On May 16, 2023, four months prior to Plaintiff's termination she wrote on Slack: "I have bursitis of my left sit[z] bone, bulging disks L3,4,5 S1&2 sciatica and my back sways too much. (I

could go on but you get the point.) My body has taken a beating but I will not be on opio[i]ds for the rest of my life so I work out to build core strength which really helps but I have to be very careful with what I do. This all started when I stopped being active and sitting too much. I have always been a runner, taekwondo, horses and dogs so when I was not able to do that my muscles atrophied and wrecked my back. I am trying to wait to move to get a good standing desk and decent chair but this [the divorce] as you know has been going on a lot longer than expected. I hope you understand why I need to move around a little right now and it is nobody's fault but the unfortunate turn of events with this divorce taking so long. I am trying my very best but I do get in quite a bit of pain sometimes. I have doctor and physical therapist notes but I don't want to be a baby." (Defendant's Exhibit 14.)

The plain language of this paragraph does not suggest Plaintiff was requesting a standing desk at that time. Rather, it suggests she intended to obtain one after her move. This paragraph alone cannot be said to be substantial evidence of a pretext for Plaintiff's termination based upon a request for a standing desk.

Based upon the foregoing, the motion for summary adjudication of this cause of action is granted.

6. Failure to Prevent Discrimination in Violation of FEHA

Plaintiff alleges Defendant failed to prevent discrimination. However, because Defendant has met its burden to establish a legitimate, nondiscriminatory reason for Plaintiff's termination and Plaintiff has not shown pretext, Defendant has established the lack of discrimination. Therefore, Plaintiff's cause of action for failure to prevent discrimination also fails. Defendant's motion for summary adjudication of this cause of action is granted.

7. Failure to Accommodate Physical Disability in Violation of FEHA

Defendant argues that Plaintiff cannot maintain a cause of action for failure to accommodate because she had a standing desk available for her use at a workstation in the office and because she told her supervisors that she would get her own standing desk. These two facts ignore the bulk of Plaintiff's testimony that she repeatedly requested a standing desk for remote use and that her requests were met with silence. Defendant's argument fails to meet its burden on this issue. Accordingly, the motion for summary adjudication of this cause of action is denied.

8. Failure to Engage in Interactive Process

Defendant's argument in response to this cause of action is similarly lacking as it does not address the bulk of the evidence. Accordingly, the motion for summary adjudication of this cause of action is denied.

9. Wrongful Discharge in Violation of Public Policy

This cause of action is derivatively based upon Plaintiff's discrimination causes of action. As those are subject to summary adjudication, Plaintiff's cause of action for wrongful discharge in violation of public policy is also subject to summary adjudication.

10. Punitive Damages

Defendant argues in the context of this case punitive damages require clear and convincing evidence that a corporate officer acted with oppression, malice, or fraud, and that the only evidence presented establishes that Defendant's managers and supervisors treated Plaintiff with respect, kindness, and understanding. Defendant's conclusion is insufficient to meet its burden. Defendant has not provided authority that one of the remaining causes of action cannot support an award of punitive damages.

11. Conclusion and Order

Defendant's motion for summary adjudication of Plaintiff's first cause of action for disability discrimination, second cause of action for age discrimination, third cause of action for retaliation, fourth cause of action for failure to prevent discrimination, and seventh cause

of action for wrongful termination is GRANTED. Defendant's motion for summary judgment and motion for summary adjudication of Plaintiff's fifth cause of action for failure to accommodate, sixth cause of action for failure to engage in the interactive process, and request for punitive damages is DENIED.

Defendant'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.

3. 24CV06530, Looney v. 2211 Club LLC

Plaintiff Gary E. Looney dba Collectronics of California ("Plaintiff") moves for an order appointing Landon McPherson as receiver to take possession of and, if necessary, sell the liquor license of 2211 Club, LLC, in order to carry out the judgment entered in this case in the amount of $4,118.10.

Specific statutory procedures are established for enforcement of money judgments. This includes the appointment of a receiver after judgment to carry the judgment into effect. (CCP section 564(b)(3).) The judgment debtor's interest in an alcoholic beverage license may be applied to the satisfaction of a money judgment. (CCP § 708.630(a).)

A trial court must consider the availability and efficacy of other remedies in determining whether to employ the extraordinary remedy of a receivership. (*City & Cty. of San Francisco v. Daley* (1993) 16 Cal.App.4th 734, 745.) In making this decision, the court must depend upon competent and admissible evidence submitted by the parties, and not conclusions and hearsay. (*McCaslin v. Kenney* (1950) 100 Cal.App.2d 87, 94.)

"California rigidly adheres to the principle that the power to appoint a receiver is a delicate one which is to be exercised sparingly and with caution." (*Morand v. Superior Ct.* (1974) 38 Cal.App.3d 347, 351.) "It is said by the state's courts that the appointment of a receiver is 'an extraordinary and harsh,' and 'delicate,' and 'drastic,' remedy to be used 'cautiously and only where less onerous remedies would be inadequate or unavailable…'" (*Ibid*.)

Mere difficulty in trying to collect a debt is not sufficient basis for the court to appoint a receiver. (*Medipro Medical Staffing LLC v. Certified Nursing Registry, Inc.* (2021) 60 Cal.App.5th 622, 628-629.) The *Medipro* Court explained, "Medipro's evidentiary showing demonstrated that it had, at most, encountered some difficulty in its initial efforts to collect on its money judgment. If this was sufficient to constitute the 'necessity' required to justify the 'extraordinary' remedy of the appointment of a receiver to take over a judgment debtor's business, it is difficult to see how the appointment of receivers would not become a routine part of the collection of judgments—a result at odds with the solid wall of precedent holding to the contrary."

On January 13, 2025, judgment was entered in this action for the above stated amount against 2211 Club, LLC and Dan Karnicki, individually as personal guarantor ("Judgment Debtors"). Plaintiff states he has attempted to collect on the judgment by attempting to locate a bank or deposit account, mailing a letter requesting payment, serving post-judgment interrogatories and requests for production of documents, and mailing a letter requesting responses to the post-judgment discovery. (Looney decl., ¶¶6-10.) On March 20, 2026, this court granted Plaintiff's request to compel Judgment Debtors to provide responses to Plaintiff's post-judgment discovery requests. Plaintiff's declaration stating that order was served on October 30, 2025, is clearly erroneous, as it would have taken place prior to the motion and entry of judgment. (*Id.,* at ¶12.) Judgment Debtors' business is open and located at 2211 Polk Street in San Francisco. (*Id.,* at ¶4.)

According to Plaintiff, the sheriff's office will not sell liquor inventory; the installation of a sheriff's keeper is ineffective; the size of the judgment makes it impractical to levy upon equipment,

fixtures, or inventory; plus, the value of equipment and fixtures is depressed. (*Id.,* ¶11.) Thus, Plaintiff concludes there is no other option but to appoint a receiver to seize and sell the liquor license to satisfy the judgment.

Plaintiff has not made a sufficient factual showing that appointing a receiver to seize and sell the liquor license is necessary. As in *Medipro*, *supra*, Plaintiff has only shown that he has encountered some difficulties in his initial efforts to collect the judgment as the Judgment Debtors have not responded to Plaintiff's letters. While Plaintiff states in his declaration that he investigated the Judgment Debtors' finances, there is no explanation regarding the depth of this investigation. This court is not convinced that no bank accounts exist linked to a business that is purportedly still open. Plaintiff's representations regarding the inadequacy of alternative remedies are not supported by foundation. In addition, it is not clear if the order compelling the Judgment Debtors to respond to Plaintiff's post-judgment discovery requests was served on the Judgment Debtors.

Mere difficulties in collecting the judgment are insufficient grounds for appointing a receiver. Plaintiff has failed to meet his burden of proving that a receiver is necessary in this matter. **The motion is DENIED.** Due to the lack of opposition, the court's minutes shall constitute the order of the court.

4. <u>25CV07566, Arshi v. Sonoma-Marin Area Rail Transit District (SMART)</u>

Motion withdrawn by moving party.

5. <u>25CV07912, Jussila v. AAA Insurance Company</u>

Motion withdrawn by moving party.