

TENTATIVE RULINGS

LAW & MOTION CALENDAR

Wednesday, July 2, 2025 3:00 p.m.

Courtroom 17 – Hon. Rene A. Chouteau for Hon. Jane Gaskell

3035 Cleveland Avenue, Santa Rosa

PLEASE NOTE: In accordance with the Order of the Presiding Judge, a party or representative of a party may appear in Department 17 in person or remotely by Zoom, a web conferencing platform.

CourtCall is not permitted for this calendar.

If the tentative ruling is accepted, no appearance is necessary via Zoom unless otherwise indicated.

TO JOIN D17 ZOOM ONLINE:

Meeting ID: 161 126 4123

Passcode: 062178

<https://sonomacourt-org.zoomgov.com/j/1611264123>

TO JOIN ZOOM BY PHONE:

By Phone (same meeting ID and password as listed for each calendar):

+1 669 254 5252

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** Judge Gaskell's Judicial Assistant by telephone at **(707) 521-6723 6725**, and all other opposing parties of your intent to appear, and **whether that appearance is in person or via Zoom**, by **4:00 p.m. the court day immediately preceding the day of the hearing.**

1. 23CV00822, Steele v. Gentry

Plaintiff Moni Syeda's motion for an order allowing discovery and disclosure of the financial condition of Defendant Pat Gentry ("Defendant"), pursuant to Civil Code section 3295, is **GRANTED**. The parties' requests for judicial notice are **GRANTED**.

I. PROCEDURAL HISTORY

Plaintiffs and Defendant participated in trial in an action consolidating Plaintiffs' two restraining order cases they brought alleging that Defendant knowingly engaged in a pattern of conduct meant to alarm, annoy, and harass them. (Memorandum of Points and Authorities ["MPA"], 4:14-17.) After a court trial, the Court ruled in favor of Plaintiff Syeda against Defendant. (Plaintiffs' Request for Judicial Notice, Exhibit A.)

Plaintiff Syeda now moves for an order permitting discovery and disclosure of Defendant's financial condition, arguing that based on the court trial on the consolidated restraining order cases, Plaintiff Syeda has already met her burden of showing by clear and convincing evidence that she is likely to prevail in her punitive damages claim. (MPA, 5:3-10.) Defendant filed an opposition, to which Plaintiff Syeda filed a reply.

II. REQUEST FOR JUDICIAL NOTICE

Plaintiff Syeda requests judicial notice of the following documents:

1. Findings After Court Trial of Petition for Civil Harassment Restraining Order (C.C.P. § 527.6), filed May 19, 2023, in *Syeda v. Gentry* (Case No. SCV-272938);
2. Civil Harassment Restraining Order After Hearing filed May 19, 2023, in *Syeda v. Gentry* (Case No. SCV-272938); and
3. Request for Civil Harassment Restraining Order in *Syeda v. Gentry* (Case No. SCV-272938).

Defendant requests judicial notice of the following documents:

1. Notice of Entry of Judgment and Order Denying Petitioner Juneko Steele's Request for Civil Harassment Restraining order dated March 29, 2023, in *Steele v. Gentry* (Case No. SCV-272939);
2. Plaintiff Syeda's Request for Dismissal with Prejudice of Cause of Action for Intentional Infliction of Emotional Distress filed April 30, 2025, in this action;
3. Plaintiff Steele's Request for Dismissal with Prejudice of Cause of Action for Intentional Infliction of Emotional Distress filed February 26, 2025, in this action;
4. Memorandum of Points & Authorities in support of Defendant Gentry's Opposition to Request to Modify and in support of Request to Terminate Civil Harassment Restraining order pursuant to C.C.P. section 527.6 filed May 20, 2025, in *Syeda v. Gentry* (Case No. SCV-272938);
5. Declaration of Patricia Conway in support of Pat Gentry's Opposition to Request to Modify and in support of Request to Terminate Civil Harassment Restraining Order and in Support of Motion to Terminate Civil Harassment Restraining order pursuant to C.C.P. section 527.6 filed May 20, 2025, in *Syeda v. Gentry* (Case No. SCV-272938);
6. Declaration of Pat Gentry in support of Pat Gentry's Opposition to Request to Modify and in Support of Request to Terminate Civil Harassment Restraining Order and in Support of Motion to Terminate Civil Harassment Restraining order pursuant to C.C.P. section 527.6 filed May 20, 2025, in *Syeda v. Gentry* (Case No. SCV-272938);
7. Declaration of Evan E. Zelig, Esq., in support of Pat Gentry's Opposition to Request to Modify and in support of Request to Terminate Civil Harassment Restraining Order and in Support of Motion to Terminate Civil Harassment Restraining order pursuant to C.C.P. section 527.6 filed May 20, 2025, in *Syeda v. Gentry* (Case No. SCV-272938);
8. Declaration of Larry Hinman, Esq., in support of Pat Gentry's Opposition to Request to Modify and in support of Request to Terminate Civil Harassment Restraining Order and in Support of Motion to Terminate Civil Harassment Restraining order pursuant to C.C.P. section 527.6 filed May 20, 2025, in *Syeda v. Gentry* (Case No. SCV-272938);
9. Declaration of Jessica Zabor, in support of Pat Gentry's opposition to Request to Modify and in support of Request to Terminate Civil Harassment Restraining Order and in Support of Motion to Terminate Civil Harassment Restraining order pursuant to C.C.P. section 527.6 filed May 20, 2025, in *Syeda v. Gentry* (Case No. SCV-272938); and

10. Minute Order continuing hearing on restraining order to August 27, 2025, dated May 27, 2025, in *Syeda v. Gentry* (Case No. SCV-272938).

Judicial notice of official acts and court records is statutorily appropriate. (Evid. Code §§ 452(c)-(d).) Per Evidence Code section 452, the parties' requests for judicial notice are **GRANTED**.

III. ANALYSIS

Legal Standard

Per Civil Code section 3295, "the Court may, for good cause, grant any defendant a protective order requiring the plaintiff to produce evidence of a prima facie case of liability for damages pursuant to Section 3294, prior to the introduction of evidence of: (1) The profits the defendant has gained by virtue of the wrongful course of conduct of the nature and type shown by the evidence. (2) The financial condition of the defendant." No pretrial discovery by a plaintiff is permitted with respect to this type of evidence absent a court order. (Civ. Code § 3295(c).) A plaintiff may still subpoena documents or witnesses for the purposes of establishing the above-stated information to be available at trial, during which time the defendant may be required to identify relevant and admissible documents. (*Ibid.*)

After a hearing on plaintiff's motion supported by appropriate affidavits, the court may at any time enter an order permitting the discovery otherwise prohibited by section 3295(a) "if the court finds, on the basis of the supporting and opposing affidavits presented, that the plaintiff has established that there is a substantial probability that the plaintiff will prevail on the claim pursuant to Section 3294." (Civ. Code § 3295(c).) However, an order granting such a motion shall not be considered a determination on the merits. (*Ibid.*)

On application of any defendant, the court shall also preclude the admission of evidence of that defendant's profits or financial condition until after the trier of fact returns a verdict for plaintiff awarding actual damages and finds that a defendant is guilty of malice, oppression, or fraud in accordance with Section 3294. (Civ. Code § 3295(d).)

Plaintiff Syeda's Motion

Plaintiff Syeda cites Civil Code section 3294, which allows an award of punitive damages if it is proven by clear and convincing evidence that the defendant has been guilty of oppression, fraud, or malice. (MPA, 5:11-22.) Plaintiff argues that she has already established per the findings after court trial, by clear and convincing evidence, that Defendant knowingly engaged in a pattern of conduct over a period of months directed at her and which seriously alarmed, annoyed, and harassed her. (Plaintiff's Request for Judicial Notice, Exhibit A.) She points to the findings to argue that it has already been established that Defendant's conduct was despicable, which supports a finding of Defendant's malice towards her. (MPA, 6:18-27, 7:1-6.) Particularly, the findings after court trial stated that Defendant's conduct "can fairly be described as repeated bullying under threat of violence" and that "there was no legitimacy" to Defendant's conduct. (Plaintiff's Request for Judicial Notice, Exhibit A.) Plaintiff uses these findings as support that that, by clear and convincing evidence, there is a substantial likelihood she can prevail on punitive damages, so the Court should permit her to discover Defendant's financial condition. (MPA, 9:7-20.)

Defendant's Opposition

Defendant argues that Plaintiff Syeda has not met her burden of showing that there is a substantial probability that she will prevail on her punitive damage claim because the issues adjudicated by the previous court trial are not identical to what is at issue in this action, and because there is “new evidence” that the Court ought to consider regarding the restraining orders. (Opposition 7:1-27.) Furthermore, Plaintiff Syeda has dismissed with prejudice her claim for intentional infliction of emotional distress, which dismissal Defendant argues is a final judgment on the merits barring any future action on the same claim under *Boeken v. Philip Morris USA, Inc.* (2010) 48 Cal.4th 788, 793. (*Id.* at 18-24.)

Reply to Opposition

In the Reply, Plaintiff Syeda responds that Defendant is improperly trying to relitigate the findings of the court trial by stating that new evidence warrants revisiting the basis of the findings. (Reply, 2:8-13.) Plaintiff asserts that collateral estoppel precludes relitigation of the consolidated restraining orders that have already been decided after court trial.

Application

Based on Plaintiff’s moving papers and the finding after court trial submitted in support of Plaintiff’s motion, the Court will allow the discovery of Defendant’s financial condition as Plaintiff has established there is a substantial probability she will prevail on her claims relating to punitive damages. As a reminder, under Civil Code section 3295, an order granting such a motion shall not be considered a determination on the merits.

IV. CONCLUSION

The motion is **GRANTED**. Plaintiff shall submit a written order on its motion to the Court consistent with this tentative ruling and in compliance with Rule of Court 3.1312(a) and (b).

2. 23CV01534, Johnson v. NOCAL AG Inc.

Plaintiff Mark Johnson’s unopposed motion to compel Defendant Nocal AG, Inc’s (“Defendant”) to designate its Person Most Qualified (“PMQ”) to testify on its behalf and produce all documents responsive to requests in the Notice of Deposition is **GRANTED**. Defendant’s designated PMQ shall appear for deposition within 30 days of receiving notice of this Court’s order on Plaintiff’s motion.

I. PROCEDURAL HISTORY

Plaintiff commenced this action against Defendants for violations of the Consumers Legal Remedies Act (“CLRA”) as well as nine other causes of action regarding a 2020 Jeep Wrangler that Defendant sold to Plaintiff. (Memorandum of Points and Authorities [“MPA”], 1:21-28, 2:1-9.) Plaintiff experienced transmission issues with the Jeep and took it in for warranty repairs, but the Jeep was ultimately not repaired. (*Ibid.*)

Plaintiff served a Notice of Deposition (the “Notice”) on Defendant via counsel on December 31, 2024, to designate a PMQ to testify on Defendant’s behalf on March 5 and 6, 2025, and to produce documents responsive to the requests stated in the Notice. (*Id.* at 3:3-5.) A day before the deposition was scheduled, Plaintiff sent Defendant’s counsel an email to confirm if the scheduled deposition would go forward, but did not receive a response. (Gasca Declaration, ¶ 3.) Plaintiff’s counsel appeared for deposition via zoom on the date and at the time stated on the Notice, but defendant failed to appear even though no objections

were served as to the Notice. (MPA, 3:7-10.) Furthermore, Defendant did not offer any alternative dates for the deposition to be rescheduled. (*Id.* at 3:10.)

Plaintiff now moves to compel the deposition of Defendant's PMQ. Plaintiff's counsel sent a meet and confer letter to Defendant's counsel prior to bring this motion, but Defendant's counsel did not respond to it or any other attempts to meet and confer about the deposition or the motion. (MPA, 3:11-13.) Per the Proof of Service and Notice of Hearing filed in support of this motion, Defendant was timely and properly served with the moving papers and notice of the hearing date via email to Defendant's counsel, but Defendant failed to oppose the motion.

II. ANALYSIS

Legal Standard

Motion to Compel Deposition

Per C.C.P. section 2025.450(a), if a party to the action or "an officer, director, managing agent, or employee of a party, or a person designated by an organization that is a party under Section 2025.230," fails to appear for examination without having served a valid objection under Section 2025.410, or fails to proceed with a deposition, or fails to produce for inspection any document or tangible thing described in the deposition notice, then the noticing party may move for an order compelling the deponent's attendance and testimony, and the production for inspection of any document or tangible thing described in the deposition notice. Section 2025.250(a) allows the deposition to be taken "at a place that is, at the option of the party giving notice of the deposition, either within 75 miles of the deponent's residence, or within the county where the action is pending and within 50 miles of deponent's residence."

Meet and Confer Requirement

On non-appearance of a deponent, the moving party shall attempt to meet and confer in good faith regarding the non-appearance and file a declaration with the motion to compel deposition stating that the moving party made an inquiry to the deponent as to the nonappearance. (C.C.P. § 2025.450(b)(2); *Leko v. Cornerstone Building Inspection Service* (2001) 86 Cal.App.4th 1109, 1124.)

Sanctions

If a court grants a motion to compel deposition under C.C.P. section 2025.450(a), the court shall impose a monetary sanction in favor of the party who noticed the deposition and against the deponent or the party with whom the deponent is affiliated, unless the court finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust. (C.C.P. § 2025.450(g)(1).)

Plaintiff's Motion

Plaintiff moves to compel the deposition of Defendant's PMQ per C.C.P. sections 2025.220, 2025.230, 2025.450, and 2025.480, because Defendant failed to object to the Notice and failed to produce a deponent for the deposition on noticed date. (MPA, 2:1-8.) Plaintiff did not request any sanctions against Defendant. Defendant has not opposed.

Application

The Court finds that the motion was warranted as Defendant failed to object to the Notice, to appear at the noticed deposition, to produce any documents responsive to the requests made in the motion, and failed to provide alternative dates for the deposition of its PMQ. Despite Plaintiff's counsel's attempts to meet and confer, Defendant never responded, which necessitated this motion. The Court will grant the motion in its entirety, as Defendant has also failed to oppose the motion to offer any justification.

III. CONCLUSION

Based on the above, the motion is **GRANTED**. Defendant Nocal AG, Inc.'s PMQ shall appear for deposition within 30 days of receiving notice of this Court's order on the motion. Unless oral argument is requested, the Court will sign the proposed order lodged with the Court.

3. 24CV02375, Wang v. Hernando

Defendants The Olive Press, LLC and Teresa Hernando (together "Defendants") move for summary judgment ("MSJ") as to, or in the alternative for summary adjudication on, each cause of action alleged in Plaintiff Wang's First Amended Complaint ("FAC"). The motion is **DENIED** as procedurally deficient for failure to give timely notice.

Code of Civil Procedure ("C.C.P.") section 437c(a)(2) states that notice of the motion and supporting papers shall be served on all other parties to the action at least 81 days before the time appointed for hearing. Here, the Court initially appointed the hearing on July 30, 2025. The moving papers were served on Plaintiff on April 23, 2025, which was 98 days before the initial hearing date, and the first notice of hearing on the motion was served on May 2, 2025, which was 89 days before the initial hearing date. However, the hearing on Defendants' MSJ was advanced after service of the moving papers and notice of hearing on the motion, but before the initial deadline to file an opposition.

Per section 437c, any opposition is due 20 days before the hearing date. Here, Plaintiff initially had at the latest until July 10, 2025, to file the opposition, but the time was cut short to review the moving papers and prepare an opposition after the Court shortened the time to hear the MSJ to a date before the opposition was due. The Court finds that this shortening of time was prejudicial to Plaintiff for the purposes of an MSJ as the timelines prescribed by C.C.P. section 437c must be adhered to strictly. For this reason, the Court finds that Plaintiff did not have sufficient notice of the motion or sufficient time to prepare an opposition as is afforded by the statute.

On this basis, the Court will deny the MSJ and also will not consider any of the supporting papers or objections to the supporting papers due to the existing procedural issues.

4. 24CV03381, Pappas v. Pruett – moving party requests oral argument; Brian Dworetzky appearing via Zoom

The Court's rules as follows to the parties' motions against Plaintiff Christian Pappas' First Amended Complaint ("FAC"):

1. Defendants/Cross-Complainants Azeem, Inc. (doing business as 7-Eleven No. 14125A), Gurpreet Singh, and Farrah Shaheen's (together "Azeem Inc. Defendants") demurrer to the Fourth Cause of Action in the FAC is **OVERRULED**.

2. Specially Appearing Defendant 7-Eleven's ("7-Eleven") motion to strike punitive damages in the FAC is **GRANTED**.

Plaintiff shall file and serve the Second Amended Complaint within 10 days of receiving notice of entry of this Court's order on the above motions.

I. PROCEDURAL HISTORY

The incident giving rise to this action was a motor vehicle collision that occurred on October 13, 2023. (FAC, ¶ 15.) Defendants Puetts' vehicle allegedly lost control and collided with Plaintiff's vehicle causing it to catch fire, which resulted in severe burns to Plaintiff and ultimately required the amputation of both of Plaintiff's legs below the knees. (*Id.* at ¶¶ 16-17.) Plaintiff's FAC alleges general negligence, negligence per se, and negligent entrustment against the Puetts. (*Id.* at ¶¶ 18-53.)

Plaintiff also alleges a Fourth Cause of Action for negligence and negligence per se against Defendants 7-Eleven, Inc. and Azeem Inc. Defendants claiming that they owed a duty to Plaintiff to not sell him alcohol beverages when he was an "obviously intoxicated minor." (Demurrer, 3:6-15; FAC, ¶¶ 54-70.) Plaintiff requests punitive damages in the FAC against 7-Eleven 14125A and Azeem Inc. (FAC, ¶¶ 71-74, Prayer, ¶ 4.)

Azeem Inc. Defendants met and conferred via email and correspondence regarding deficiencies in the Demurrer, but the parties did not resolve the issues. (Dworetzky Decl., ¶ 2, Exhibit B.) They now demur to the Fourth Cause of Action per Code of Civil Procedure ("C.C.P.") section 430.10(e) for failure to state facts sufficient to constitute a cause of action for negligence and negligence per se against Azeem Inc. Defendants. (Demurrer, 2:9-10.)

7-Eleven moves to strike punitive damages alleged against it in Paragraphs 43 to 64, portions of Paragraphs 68 to 70, and line 10 on Page 25 in the FAC. (Motion to Strike, pp. 2-5.) 7-Eleven argues that allegations regarding the intent of 7-Eleven's agents, officers, or directors are improper or unsubstantiated. (*Id.* at pp. 5-7.) 7-Eleven also moves to strike the claim for attorney's fees on page 26, line 1, against 7-Eleven in the FAC arguing that there is no legal basis. (*Id.* at pp. 7-8.) Prior to bringing the motion, 7-Eleven met and conferred on March 17, 2025, to discuss these issues, but did not reach any agreement. (Coleman Decl., ¶¶ 1-8.)

Plaintiff opposes both motions. 7-Eleven and Azeem Inc. Defendants have submitted reply briefs for their respective motions.

II. AZEEM INC. DEFENDANTS' DEMURRER

Legal Standard

Demurrer

A demurrer can be used only to challenge defects that appear on the face of the pleading under attack or from matters outside the pleading that are judicially noticeable. (C.C.P. § 430.30(a).) At demurrer, all facts properly pleaded are treated as admitted, but contentions, deductions and conclusions of fact or law are disregarded. (*Serrano v. Priest* (1971) 5 Cal.3d 584, 591.) Similarly, opinions, speculation, or allegations contrary to law or facts which are judicially noticed are also disregarded. (*Coshov v. City of Escondido* (2005) 132 Cal.App.4th 687, 702.) Each evidentiary fact that might eventually form part of a party's proof does not need to be alleged. (*C.A. v. William S. Hart Union High School Dist.* (2012) 53

Cal.4th 861, 872.) Conclusory pleadings are permissible and appropriate where supported by properly pleaded facts. (*Perkins v. Superior Court* (1981) 117 Cal.App.3d 1, 6.)

Leave to amend should generally be granted liberally where there is some reasonable possibility that a party may cure the defect through amendment. (*The Swahn Group, Inc. v. Segal* (2010) 183 Cal.App.4th 831, 852.)

Negligence

For a cause of action for negligence, the elements are well established as “(a) a legal duty to use due care; (b) a breach of such legal duty; [and] (c) the breach as the proximate or legal cause of the resulting injury.” (*Ladd v. County of San Mateo* (1996) 12 Cal.4th 913, 917.) A breach of a legal duty means the “failure to meet the standard of care.” (*Coyle v. Historic Mission Inn Corp.* (2018) 24 Cal.App.5th 627, 643.) For the causation requirement to be satisfied, there must be a connection between the defendant’s alleged breach and the plaintiff’s sustained injury. (*Id.* at 24 Cal.App.5th at 645.) The court determines and formulates the standard of conduct to which a defendant must conform per the duty and it is a question of law. (*Regents of University of California v. Superior Court* (2018) 29 Cal.App.5th 890, 902-903.) A duty can be “imposed by law, be assumed by the defendant, or exist by virtue of a special relationship.” (*Doe v. United States Youth Soccer Assn., Inc.* (2017) 8 Cal.App.5th 1118, 1128.)

Negligence Per Se under Business and Professions Code § 25602.1

Per section 25602.1, “a cause of action may be brought by or on behalf of any person who has suffered injury or death against any person licensed, or required to be licensed...to sell alcoholic beverages...to any obviously intoxicated minor where the furnishing, sale or giving of that beverage to the minor is the approximate cause of the personal injury or death sustained by that person.”

Demurrer to FAC

Azeem Inc. Defendants demurrer to the Fourth Cause of Action in the FAC alleged against them based on three arguments. First, Defendants argue that Plaintiff failed to plead any facts demonstrating that Plaintiff was obviously intoxicated or that Defendants were aware Plaintiff was a minor when Defendants sold him alcohol. (Demurrer, 5:1-2.) Second, Defendants argue that Plaintiff was not obviously intoxicated because neither the FAC nor the police report offered in support indicate that Plaintiff was drunk or appeared drunk, such having impaired judgment, alcoholic breath, incoherent or slurred speech, poor muscular coordination, staggering or unsteady walk, loss of balance, loud, boisterous, or argumentative conduct, flushed face, or other symptoms. (*Id.* at 5:18-28, 6:1-3.) Furthermore, Plaintiff does not reference any witnesses who can corroborate that Plaintiff was obviously intoxicated at the time Defendants sold him alcohol. (*Id.* at 6:2-3.) Finally, Defendants argue that section 25602.1 is not intended to prevent injuries to minors who purchase alcohol illegally and are later injured by a third party to whom the minor did not provide that alcohol. (*Id.* at 9:12-22.)

Opposition

Plaintiff argues that the FAC contains adequate facts to overcome the demurrer. Plaintiff alleges that his injuries underscore the despicable nature of Defendants’ conduct and that he was “obviously intoxicated” when Defendants sold him Four Loko alcoholic beverages. (Opposition to Demurrer, 2:13-28, 3:1-13.) Plaintiff alleges that Defendants knew these beverages were popular among minors and were predominantly purchased and consumed by minors, but “willfully and consciously disregarded” the danger of selling these beverages. (*Ibid.*) Plaintiff also argues that whether he was obviously intoxicated is a question of fact that will be further investigated through discovery. (*Id.* at 4:25-28, 3:1-2.) Finally,

Plaintiff claims that direct injury to the minor who purchased alcohol satisfies the statutory requirements for proximate causation. (*Id.* at 6:2-7.)

Reply

Azeem Inc. Defendants reaffirm argues made in the demurrer in the Reply. They also respond that their conduct was not despicable solely because Plaintiff ultimately was injured because their sale of alcohol was not the proximate cause of death or injury because Plaintiff was not operating the Preetts' vehicle. (Reply, 3:28, 4:1-7.) Defendants also reaffirm that Plaintiff did not allege specific facts that show that Defendants acted with oppression, fraud, or malice with the intent to inflict great bodily harm on Plaintiff. (*Ibid.*)

Application

The Court finds that the FAC contains ultimate facts to allege that Defendants were aware that Plaintiff was a minor when they sold him the Four Loko alcoholic beverages or Plaintiff appeared as obviously intoxicated at the time the alcoholic beverages were sold to him. Plaintiff does not need to include specific evidentiary allegations to support the ultimate facts alleged. The demurrer may rely on any deficiencies shown on the face of the FAC, but not factual material contained in the police report.

III. 7-ELEVEN'S MOTION TO STRIKE

Legal Standard

Motion to Strike

A motion to strike lies where a pleading contains "irrelevant, false, or improper matter[s]" or is "not drawn or filed in conformity with the laws of this state, a court rule, or an order of the court." (C.C.P. § 436(b).) However, "falsity" must be demonstrated by reference to the pleading itself or judicially noticeable matters, not extraneous facts. (See CCP § 437.)

Punitive Damages

When a plaintiff claims a breach of an obligation against a defendant, not arising from any contract, punitive damages may be recovered in addition to actual damages when it is proven by clear and convincing evidence that the defendant has been guilty of oppression, fraud, or malice against the plaintiff. (Cal. Civ. Code § 3294.) The code describes "malice" as conduct that the defendant intended to cause injury to the plaintiff, or "despicable conduct which is carried on by the defendant with a willful and conscious disregard of the rights or safety of others." (*Id.* at § 3294(c)(1).) "Oppression" is defined as "despicable conduct that subjects a person to cruel and unjust hardship in conscious disregard of that person's rights." (*Id.* at § 3294(c)(2).) Finally, "fraud" is defined as the "intentional misrepresentation, deceit, or concealment of a material fact known to the defendant with the intention on the part of the defendant of thereby depriving a person of property or legal rights or otherwise causing injury." (*Id.* at § 3294(c)(3).)

Motion to Strike

7-Eleven moves to strike the prayer for punitive damages from the FAC and the portions of the FAC listed in the Notice of Motion and Motion to Strike, as well as Plaintiff's request for attorney's fees against 7-Eleven. (Memorandum of Points and Authorities ["MTS MPA"], 2:10-28.) 7-Eleven argues that sufficient facts have not been alleged to establish any agency relationship between 7-Eleven and Azeem

Inc. Defendants to impose vicarious liability. (*Id.* at 5:14-28, 6:1-15.) Furthermore, 7-Eleven argues that Plaintiff failed to plead any specific allegation of conduct by 7-Eleven with reasonable particularity that 7-Eleven's conduct was oppressive, fraudulent, or malicious towards Plaintiff. (*Id.* at 6:18-22.) 7-Eleven notes that there is a complete absence of any allegation showing that 7-Eleven directed any "despicable conduct" specifically towards Plaintiff with the intent to harm him, with a spirit of mischief, or with criminal indifference. (*Id.* at 8:17-22.) 7-Eleven also requests that attorney's fees be stricken as Plaintiff failed to present any facts that justify an award of attorney's fees by a contractual or statutory provision that supports such a recovery against 7-Eleven. (*Id.* at 9:17-20.)

Opposition

Plaintiff makes similar arguments against the Motion to Strike as were made in the opposition to the Azeem Inc. Defendants' Demurrer. Plaintiff argues that the FAC alleges that 7-Eleven had advance knowledge that the Four Loko beverages were extremely popular among minors and were predominantly purchased by them, and also that there were legal actions pursued by at least 20 states' attorneys general and the City Attorney of San Francisco against the manufacturer of Four Loko arguing that it had been marketed with the intent to target underage minors and young adults. (Opposition Motion to Strike, 2:1-6.) Plaintiff argues that 7-Eleven willfully and consciously disregarded the danger of allowing Four Loko beverages to be sold at its franchise locations. (*Id.* at 2:7-10.) Plaintiff also argues that the vicarious liability allegations are sufficient at the pleading stage for the purposes of the Motion to Strike because the Azeem Inc. franchise operated under the 7-Eleven name, logo, and business format, which created the appearance to consumers that they were dealing directly with 7-Eleven. (*Id.* at 8:8-12.) Plaintiff argue that the attorney's fees requested should be stricken at the pleading stage even if specific statutory basis for the requested fees is unclear. (*Id.* at 15:8-16.)

Reply

In the Reply, 7-Eleven responds that the Opposition and the FAC both fail to address by supporting facts that 7-Eleven had knowledge of Four Loko's dangers. (Reply, 2:10-26.) 7-Eleven otherwise reaffirms the arguments made in the moving papers.

Application

The Court finds that Plaintiff failed to allege specific facts to support that 7-Eleven directed any "despicable conduct" specifically towards Plaintiff with the intent to harm him, with a spirit of mischief, or with criminal indifference. Plaintiff also failed to allege facts that 7-Eleven had actual knowledge of the dangers of Four Loko, but instead focused on the fact that Four Loko was generally popular with minors. Plaintiff conceded in the Opposition that there was no clear statutory basis for attorney's fees and no legal authority was otherwise cited to support an award of attorney's fees. For these reasons, the Motion to Strike is granted as to the portions of the FAC listed in the moving papers.

IV. CONCLUSION

Azeem Inc. Defendants' demurrer to the Fourth Cause of Action in the FAC against them is **OVERRULED**.

7-Eleven's motion to strike punitive damages and attorney's fees in the FAC against is **GRANTED** as to 7-Eleven.

Plaintiff shall file and serve the Second Amended Complaint within 10 days of receiving notice of entry of this Court's order on the above motions. Defendants shall submit written orders on their respective

motions to the Court consistent with this tentative ruling and in compliance with Rule of Court 3.1312(a) and (b).

5. **24CV03413, MCT Group v. Deem**

APPEARANCES REQUIRED. Per C.C.P. section 704.080(e)(4), Defendant/Judgment Debtor shall appear at and has the burden of proof at the hearing on their Claim of Exemption to show that the funds levied from their account are exempt.

6. **24CV03623, Gible v. Sonoma Media Investments, LLC**

Defendant Sonoma Media Investments, LLC's unopposed motions to compel initial discovery responses from and deem Set One of Requests for Admissions admitted against Plaintiff Don Gible are **DENIED as moot**, as the Court has already granted Defendant's motion for summary judgment in its entirety against Plaintiff's entire Complaint on June 4, 2024.

However, the Court finds that both of the motions were warranted and would have been granted if the Court had not already granted the motion for summary judgment. Defendant properly served Set One of discovery requests on Plaintiff Gible on January 6, 2025, but he has to date not served any responses. As such, the Court in its discretion will award sanctions, but for the reduced amount of \$2,105.00. This amount includes attorney's fees for 7 hours of work on the motion to compel discovery responses at a rate of \$275.00 per hour and \$90.00 in filing costs for each motion. The Court will not award any of the anticipatory fees requested as both motions were unopposed. The Court also will not award double fees for both motions as they both share the same supportive declaration and otherwise contain the same facts.

Moving party shall submit a written order consistent with this tentative ruling and in compliance with Rule of Court 3.1312(a) and (b).

7. **24CV06818, Renn v. General Motors, LLC**

Plaintiff Randall J. Renn's motion to compel Defendant General Motors, LLC ("GM") to designate its Person Most Qualified ("PMQ") to testify on its behalf and produce all documents responsive to requests in the Notice of Deposition is **GRANTED**. GM's designated PMQ shall appear for deposition within 30 days of receiving notice of this Court's order on Plaintiff's motion. Sanctions are awarded for the reduced amount of \$2,625.00 for attorney's fees incurred. Plaintiff's objections to evidence as **OVERRULED**.

I. **PROCEDURAL HISTORY**

Plaintiff commenced this action against GM for violations of the Song-Beverly Consumer Warranty Act regarding failure to repair Plaintiff's 2019 Chevrolet Bolt manufactured by GM. (Memorandum of Points and Authorities ["MPA"], 1:3-11.)

On December 16, 2025, Plaintiff served a Notice of Deposition (the "Notice") on GM on to designate a PMQ to testify on GM's behalf and to produce documents responsive to the requests stated in the Notice. (*Id.* at 2:1-2.) GM served objections to the Notice on January 3, 2025. (*Id.* at 2:2-3.) After meeting and conferring with GM's counsel, Plaintiff served the narrowed First Amended Notice on January 13, 2025, which no longer contained the category of testimony and document requests that the parties agreed should not be included for the deposition. (MPA, 2:4-17; Sanjur-Van Brande Declaration, ¶ 7.) GM served

objections to the First Amended Notice on January 28, 2025. (*Id.* at 2:17-18.) Plaintiff's counsel once again met and conferred with GM's counsel on February 11, 2025, regarding the objections made to the First Amended Notice. (MPA, 2:19-27; Sanjur-Van Brande Declaration, ¶ 10.) Plaintiff served the further narrowed Second Amended Notice on February 14, to which GM served objections again. (MPA, 2:28, 3:1-2; Sanjur-Van Brande Declaration, ¶ 12.)

Plaintiff's counsel declares that GM failed to respond to any meet and confer efforts regarding the deposition after serving the objection to the Second Amended Notice, so Plaintiff now moves to compel the deposition of GM's PMQ. (MPA, 3:3-14; Sanjur-Van Brande Declaration, ¶¶ 13-15.) GM filed an opposition to the motion, to which Plaintiff filed a reply.

II. EVIDENTIARY OBJECTIONS

Plaintiff objects to Paragraphs 5 and 12 through 16 of the Declaration of Keshishian as improper argument, lacking foundation, and conclusory. The objections are **OVERRULED**.

III. ANALYSIS

Legal Standard

Motion to Compel Deposition

Per C.C.P. section 2025.450(a), if a party to the action or "an officer, director, managing agent, or employee of a party, or a person designated by an organization that is a party under Section 2025.230," fails to appear for examination without having served a valid objection under Section 2025.410, or fails to proceed with a deposition, or fails to produce for inspection any document or tangible thing described in the deposition notice, then the noticing party may move for an order compelling the deponent's attendance and testimony, and the production for inspection of any document or tangible thing described in the deposition notice. Section 2025.250(a) allows the deposition to be taken "at a place that is, at the option of the party giving notice of the deposition, either within 75 miles of the deponent's residence, or within the county where the action is pending and within 50 miles of deponent's residence."

Meet and Confer Requirement

On non-appearance of a deponent, the moving party shall attempt to meet and confer in good faith regarding the non-appearance and file a declaration with the motion to compel deposition stating that the moving party made an inquiry to the deponent as to the nonappearance. (C.C.P. § 2025.450(b)(2); *Leko v. Cornerstone Building Inspection Service* (2001) 86 Cal.App.4th 1109, 1124.)

Sanctions

If a court grants a motion to compel deposition under C.C.P. section 2025.450(a), the court shall impose a monetary sanction in favor of the party who noticed the deposition and against the deponent or the party with whom the deponent is affiliated, unless the court finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust. (C.C.P. § 2025.450(g)(1).)

Plaintiff's Motion

Plaintiff moves to compel the deposition of GM's PMQ per C.C.P. section 2025.250(a) arguing that Plaintiff has served three timely and proper notices of deposition and exhausted meet and confer efforts to

work with GM to conduct the deposition of GM's PMQ on a date and time that is mutually agreeable, but GM continues to refuse to make its PMQ available for deposition. (MPA, 4:2-14.) Plaintiff argues that deposition of GM's PMQ is crucial to Plaintiff's Song-Beverly Consumer Warranty Act. (*Id.* at 8:16-27.) Plaintiff requests sanctions of \$2,625.00. (Sanjur-Van Brande Declaration, ¶ 19.) The attorney fees requested are for 7 hours of Plaintiff's counsel's work at a rate of \$375.00 per hour spent meeting and conferring about the deposition, preparing the motion, reviewing the opposition, preparing a reply brief, and appearing at the hearing. (*Ibid.*)

GM's Opposition

GM argues that its objections to Plaintiff's notices of deposition are well-founded because Plaintiff seeks overly broad and irrelevant information, even when GM has already produced documents directly responsive to previous discovery requests. (Opposition, 4:11-17.) GM also claims that it has agreed to produce a PMQ deponent to testify as to all categories requested by Plaintiff except one, but the separate statement in opposition shows that they object to and have refused to produce additional documents for multiple categories relating to its policies and procedures for complying with lemon law. (Opposition Separate Statement, pp. 1-5.)

Reply

In the Reply brief, Plaintiff emphasizes that they have engaged in multiple efforts to meet and confer to come to a compromise so the deposition of GM's PMQ could go forward, but GM still has not agreed to produce its PMQ for deposition. (Reply, pp. 2-4.) Plaintiff reaffirms that sanctions are warranted because GM did not respond to numerous correspondences to address GM's substantive concerns after the objection to the Second Amended Notice was served. (*Id.* at 5:11-22.)

Application

The Court finds that Plaintiff's motion was warranted as Plaintiff has served multiple narrowed amended notices of deposition on GM to cooperate with and reflect the parties' agreement reached after meeting and conferring. The Court does not find that the categories of topic and requests for document production on the Second Amended Notice were overbroad or vague, and finds that they are relevant to Plaintiff's claims. As GM continues to refuse to produce its PMQ for a deposition and has otherwise stopped responding to further attempts to meet and confer to set a date for its PMQ's deposition, the Court will grant Plaintiff's motion and also award the sanctions requested for GM's failure to cooperate and meaningfully engage with Plaintiff.

IV. CONCLUSION

Based on the above, the motion is **GRANTED**. GM's PMQ shall appear for their depositions within 30 days of receiving notice of this Court's order on the motion. Sanctions are awarded for the total amount of **\$2,625.00**. Plaintiff's objections to evidence are **OVERRULED**. Plaintiff shall submit a written order to the Court consistent with this tentative ruling and in compliance with Rule of Court 3.1312(a) and (b).