TENTATIVE RULINGS
LAW & MOTION CALENDAR
Wednesday, December 10, 2025, 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. 24CV01774, Morisi v. Heneghan

Specially appearing Defendant Shane Heneghan ("Defendant") moves for an order quashing service upon Defendant of Plaintiff's summons and complaint by way of publication. **The motion is GRANTED.**

On June 11, 2025, this court granted the application of Plaintiff Colin Morisi ("Plaintiff") to serve Defendant by publication in the Press Democrat. 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 argues that he has not resided in this country since June 2024, making service upon him via publication ineffective. Defendant argues that Plaintiff has known since at least January 2025 that Defendant no longer resided in California or the U.S.

Pursuant to CCP section 415.50, the summons must be published in a newspaper that is most likely to give actual notice to the party. Defendant argues that because he did not live in Sonoma County, the Press Democrat is not the newspaper most likely to give him actual notice.

Plaintiff opposes the motion arguing that Defendant has "case specific" ties to California through his counsel, or he has waived his objection to personal jurisdiction by appearing specially. Plaintiff fails to cite authority supporting these arguments.

Defendant's declaration shows, and this court has previously determined, that Defendant was not in the U.S. at the time of the alleged personal service on him in Venice, California. Defendant's declaration states that he left the U.S. on June 15, 2024. (Heneghan decl., ¶7.) He states that he was physically present in Vancouver, British Columbia, from September 27, 2024, thorough October 1, 2024. (*Id.,* ¶10.) Defendant's U.S. visa was revoked on April 2, 2025. (*Id.,* at ¶12.) These

statements are sufficient to show Defendant was not in Sonoma County in September 29, 2024, which was the date he was purportedly served in Venice. (See *Allen v. Superior Court in and for Los Angeles County* (1953) 41 Cal.2d 306, 309.)

In the case cited by Defendant, one main objection to service by publication on a person residing outside of the state is that due process requires fair notice. The *Allen* court noted: "This was a consideration in *Milliken v. Meyer, supra,* 311 U.S. 457, upholding a personal judgment against a domiciliary based on the personal service of process while absent from the state. It was there said at page 464: 'One ... incident of domicile is amenability to suit within the state even during sojourns without the state, where the state has provided and employed a reasonable method for apprising such an absent party of the proceedings against him.' The same principle on analogous reasoning applies where a domiciliary at the time of the commencement of the action thereafter changes his state of residence and is personally served with process in the latter state. As a citizen of the state wherein the action was commenced, he had certain responsibilities arising out of his relationship to that state by reason of domicile, one of which was amenability to suit therein. Such relationship and responsibility based on citizenship within the state are not terminated by his subsequent removal to another state, and he may be served with process pursuant to a method reasonably designed to give him notice of the proceedings brought against him in the courts of the state of his original domicile prior to his departure therefrom. We therefore conclude that section 417 satisfies the requirements of procedural due process, for no more certain provision for defendant's receipt of actual notice of the institution of litigation against him could be made than through the specified personal service of process." (*Id.,* at p. 132-133.)

However, in *Allen,* the defendant was personally served outside the state. Here, Defendant does not state where he is domiciled. However, as of the dates of publication, he was no longer domiciled anywhere in the U.S.

This court would not have granted Plaintiff's request to serve Defendant by publication in the Press Democrat had this court known that Defendant left the country on June 15, 2024, as no paper published in Sonoma County would likely provide Defendant with actual notice. Accordingly, the motion is GRANTED.

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

2. <u>24CV02479, Ochoa v. Labcon, North America</u>

Plaintiff Rosa Ochoa moves for an order compelling Defendant James Happ ("Defendant" or "Happ") to sit for deposition or, in the alternative, to be precluded from giving any self-serving testimony via declaration or at trial. **The motion is GRANTED.**

Plaintiff noticed Defendant Happ's deposition for September 9, 2025. (Wand decl., ¶ 5, Exhibit A.) Three days before the deposition, Defendant's counsel, without serving any formal objection to the deposition, informed Plaintiff's counsel via telephone that Defendant Happ would not appear for his deposition based on the apex doctrine. (*Ibid*.)

The apex doctrine states that a corporate head may not be deposed when there is no showing he or she had any involvement in a lawsuit against the corporation. (*Liberty Mutual Ins. Co. v. Superior Court* (1992) 10 Cal.App.4th 1282, 1284.) "[W]hen a plaintiff seeks to depose a corporate president or other official at the highest level of corporate management, and that official moves for a protective order to prohibit the deposition, the trial court should first determine whether the plaintiff has shown good cause that the official has unique or superior personal knowledge of discoverable information. If not, as will presumably often be the case in the instance of a large

national or international corporation, the trial court should issue the protective order and first require the plaintiff to obtain the necessary discovery through less intrusive methods. These would include interrogatories directed to the high-level official to explore the state of his or her knowledge or involvement in plaintiff's case; the deposition of lower level employees with appropriate knowledge and involvement in the subject matter of the litigation; and the organizational deposition of the corporation itself, which will require the corporation to produce for deposition the most qualified officer or employee to testify on its behalf as to the specified matters to be raised at the deposition. (§ 2025, subd. (d)(6).) Should these avenues be exhausted, and the plaintiff make a colorable showing of good cause that the high-level official possesses necessary information to the case, the trial court may then lift the protective order and allow the deposition to proceed." (*Id.,* at p. 1289.)

This action is based upon Plaintiff's allegations that she was wrongfully terminated after she took medical leave.

Plaintiff argues that Defendant's discovery responses and testimony by Mia Kavantjas, the director of HR for defendant Labcon, show that Defendant has unique personal knowledge in this case.

At her deposition, Ms. Kavantjas testified that Defendant Jim Happ would be responsible for determining whether an investigation should be made into whether Ms. Kavantjas wrongfully terminated Plaintiff. (Wand decl., Exhibit C, pp. 98-99.)

In response to Plaintiff's request for admissions, number 7, Defendant admitted that he was involved in the decision to terminate Plaintiff's employment. (Wand decl., Exhibit D, Number 7.)

Plaintiff argues she has exhausted less intrusive discovery methods because no person other than Defendant Happ can testify about Defendant Happ's personal knowledge.

In opposition, Defendant argues that Ms. Kavantjas' testimony actually shows that it was only her and Plaintiff's supervisor that made the decision to terminate Plaintiff. At her deposition, Ms. Kavantjas testified that she did not need Defendant's approval to terminate an employee. (Anderies decl., Exhibit A, p. 15.) She further testified that Defendant was notified after the fact that Ms. Kavantjas terminated Plaintiff's employment with Labcon. (*Id.,* p. 57.)

In response to Plaintiff's special interrogatory number 4 seeking the identity of all persons who had any involvement or participation in the decision to terminate Plaintiff's employment, Defendant identified Ms. Kavantjas, Laura Hundall (supervisor), and himself. (Anderies decl., Exhibit D, number 4.)

Defendant Labcon's responses do not include Defendant Happ has having been involved in the decision to terminate Plaintiff's employment. (Anderies decl., Exhibit F, Number 8.) Defendant Labcon's response to why Plaintiff was fired was that: "Plaintiff's employment was terminated for job abandonment arising from her failure to follow Labcon policies on attendance and leaves of absence as set forth in the Employee Handbook that Plaintiff received and acknowledged. Plaintiff failed to report to work as scheduled for at least two consecutive workdays following an extended leave of absence, failed to timely and properly communicate with Defendant regarding the need to extend her leave, and failed to provide an updated notice from her medical provider regarding her work status within the prescribed time period of two (2) consecutive workdays." (Anderies decl., Exhibit D, number 9.)

Ms. Kavantjas and Ms. Hundall are identified as those responsible for evaluating Plaintiff's job performance. (Anderies decl., Exhibit I, Nos. 201.1, 201.2.)

In reply, Plaintiff cites additional pieces of evidence to support her motion. She cites the testimony of Ms. Kavantjas who states she discussed Plaintiff's pregnancy in 2023 with Happ. (Reply decl., Exhibit G, p. 54.)

Plaintiff argues that Ms. Kavanjtas's testimony shows Happ ratified the decision to terminate Plaintiff's employment. This is based upon Ms. Kavantjas' testimony that she told Happ the day after Plaintiff was filed. Plaintiff's counsel asked: "And then you told him you had made this decision to terminate [Plaintiff]?" (*Id.,* p. 69.) Ms. Kavantjas responded, "yes." (*Ibid*.) Plaintiff's counsel asked, "And he confirmed it?" (*Ibid*.) Ms. Kavantjas responded, "yes." (*Id.,* at p. 70.) Plaintiff's counsel asked, "He approved it?" (*Ibid*.) After Defendant's counsel's objection, Ms. Kavantjas responded: "I mean, I was telling him." (*Ibid*.) Plaintiff's counsel thereafter worked to get Ms. Kavantjas to agree that Happ "ratified" her decision to terminate Plaintiff's employment. (*Ibid*.) Stating she did not understand the question, Ms. Kavantjas thereafter agreed that Happ approved her decision to terminate Plaintiff. (*Id*. at p. 70-71.)

Defendant's opposition cites to authority that HR made the decision to terminate Plaintiff's employment. But Plaintiff also seeks to establish that Happ ratified that conduct. Plaintiff has shown that Happ himself states he was involved in the termination, if not the initial decision; and that he approved the decision after the fact. Thus, Plaintiff has established that Happ was involved in the circumstances alleged in the complaint.

The motion is GRANTED. The parties are directed to meet and confer to find a mutually agreeable date for Happ's deposition, which shall occur no later than 30 days after this order.

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.

3. <u>25CV01058, Martin v. Conte</u>

Defendants Raymond Conte and Nathan Conte ("Defendants") move for an order vacating the judgment on the grounds that it was erroneously entered due to an irregularity in the proceedings. **The motion is DENIED.**

1. Procedural History

This unlawful detainer action was filed on February 29, 2025. On March 27, 2025, Defendants filed a motion to quash service of summons. That motion was heard on April 3, 2025. On April 4, 2025, Plaintiff filed proof of service of the proposed order on Defendants. Thereafter, Defendants filed an Alternative Writ of Mandate. The March 27, 2025, motion to vacate was heard before Commissioner Kim but, because the Defendants did not appear and had not previously provided written consent to have their motion heard by a commissioner, the orders on the motion to vacate were reversed and vacated by an order dated July 9, 2025. The writ was later dismissed as moot. Defendants' motion to quash was reheard on July 9, 2025, and denied. On July 14, 2025, Plaintiff filed Notice of Entry of Judgment or Order which attached the order denying Defendants' motion to quash. The Notice shows that the order denying Defendants' motion to quash was mailed to Defendants on July 11, 2025. The next event in this action occurred on July 25, 2025, when Plaintiff sought, and this court entered, Defendants defaults. Judgment for possession only was entered on August 1, 2025. Proof of service filed that day shows the judgment, Defendants' defaults, and a writ of execution ("Default Package") were mailed to Defendants that same day. Thereafter, on August 12, 2025, this court inadvertently entered a second order denying Defendants' motion to quash service of summons. That second duplicative motion was later vacated.

2. Notice of Ruling

In their memorandum, Defendants argue that the above-referenced judgment is void because they were waiting for notice of the ruling on their motion to quash service of summons. They cite CCP section 586(a)(4), which provides: "In the following cases the same proceedings shall be had,

and judgment shall be rendered in the same manner, as if the defendant had failed to answer:" … "If a motion to quash service of summons or to stay or dismiss the action has been filed, or writ of mandate sought and notice thereof given, as provided in Section 418.10, and upon denial of the motion or writ, the defendant fails to respond to the complaint within the time provided in that section or as otherwise provided by law."

Defendants argue that the deadline for their response runs from service of the notice of the ruling on the motion to quash. Defendants attach the July 9, 2025, order. Proof of service of the order shows that it was served only on Plaintiff's counsel via email. However, as noted above, proof of service of the Default Package was filed on August 1, 2025, showing service on the Defendants by mail on that date. Defendants do not state how they came across the July 9, 2025, order, which gives Defendants 10 days from July 9, 2025, to file their answers to Plaintiff's complaint. Allowing two additional days for mailing, their answers were due by July 21, 2025. As no answers were filed, Defendants' defaults were properly entered.

Based upon the foregoing, the motion 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.

4. 25CV02065, Mencarini v. General Motors, LLC.

Defendant General Motors LLC demurs to the complaint filed on March 24, 2025. On November 25, 2025, Plaintiff Antonio R. Mencarini filed a First Amended Complaint. Accordingly, the demurrer is **denied as MOOT.**

5. 25CV02904, Wolff v. Hopen

Defendant John Hopen ("Defendant") demurs to each cause of action in the complaint filed by Plaintiff Nicole Wolff on the grounds that it is barred by the statute of limitations, for failure to state facts sufficient to constitute a cause of action, for lack of standing, and/or that it is unintelligible as plead.

1. Complaint

Plaintiff's complaint was filed on May 9, 2025. It alleges causes of action for: (1) Quantum Meruit; (2) Forced Labor (Civil Code sections 52.5(a) and 52.5(c), and Penal Code sections 236.1(a), and 236.1(h)(5)); (3) Failure to Pay Minimum Wage; (4) Failure to Reimburse Business Expenditures; and (5) Unfair Competition in violation of Business & Professions Code section 17200, et seq. Plaintiff requests punitive damages as a sixth "cause of action."

The complaint alleges that for five years, from January 2017 through May of 2022, Nishlon Watson ("Watson") worked as a live-in manager and executive assistant for Defendant. The complaint alleges that Defendant coerced Watson into relocating to Defendant's Sonoma County Estate, the "Jonive Estate." However, once there, Defendant allegedly changed the terms of Watson's and Defendant's employment agreement. Defendant was allegedly able to exploit Watson to work for up to 98 hours per week, for $500 a week, because she was financially vulnerable and socially isolated, and due to Defendant's use of psychological manipulation and coercion. Watson allegedly worked as a groundskeeper, housekeeper, and personal assistant.

2. Objections

On December 4, 2025, Defendant filed objections to Plaintiff's amended opposition and notice of errata filed on November 26, 2025. Defendant argues that these are untimely as they were

filed only three days before the hearing. This hearing is set for December 10, 2025. November 26, 2025, is 10 court days prior to December 10, 2025. The objections are overruled.

3. Standing

Defendant argues that Plaintiff does not have standing to bring this action.

The complaint alleges that the injuries stated therein occurred to Watson. The complaint alleges that in February of 2025, Watson assigned her claim for damages against Defendant to Plaintiff such that Plaintiff brings this action as her assignee.

A thing in action, arising out of the violation of a right of property, or out of an obligation, may be transferred by the owner. (Civil Code section 954.) The term "thing in action," aka "choses in action" means "a right to recover money or other personal property by a judicial proceeding." (Civil Code section 953.) Claims for personal injury, wrongs of a purely personal nature, or breaches of contracts of a purely personal nature are not assignable. (*Kracht v. Perrin, Gartland & Doyle* (1990) 219 Cal.App.3d 1019, 1023.)

"The rule is well established in California that while claims for damages for personal injuries growing out of torts, such as assaults, slander, malicious prosecution, or false imprisonment, may not be assigned, injuries to property may be assigned. The distinction between assignable and nonassignable causes arising in tort is determined by survivorship of the action after the death of the injured party. If the claim survives the death of the party it is assignable, but if it expires with his death it is not assignable. The California rule recognizes the fact that since the property does survive the death of the owner thereof, injury to the property growing out of a tort may be prosecuted by his representatives or by his assignee." (*Staley v. McClurken* (1939) 35 Cal.App.2d 622, 626.)

The majority of cases cited in support of Defendant's position that Plaintiff does not have standing to assert any of the causes of action in the complaint, because they are personal in nature and may not be assigned, are not helpful. Defendant cites: *Teal v. Superior Court* (2014) 60 Cal.4th 595; *Powers v. Ohio* (1991) 499 U.S. 400; *Kracht v. Perrin, Gartland & Doyle* (1990) 219 Cal.App.3d 1019; *Jones v. Manning* (1917) 35 Cal.App. 321; *Morris v. Standard Oil Co*. (1926) 200 Cal. 210, 252; *Franklin v. Franklin* (1945) 67 Cal.App.2d 717; *Timed Out, LLC v. Youabian, Inc*. (2014) 229 Cal.App.4th 1001*; Lazar v. Bishop* (2024) 107 Cal.App.5th 668; and *Amalgamated Transit Union v. Superior Court* (2009) 46 Cal.4th 993. The latter is useful as to the UCL claim and is discussed with respect to that cause of action.

a. *Teal v. Superior Court* (2014) 60 Cal.4th 595

This case is cited for the general proposition that a plaintiff must allege a concrete and personal interest in the controversy. This case involves the issue of whether a prisoner's claim of eligibility for resentencing under the Three Strikes Reform Act was appealable. That court notes that a party must be able to demonstrate that he or she has some such beneficial interest that is concrete and actual, and not conjectural or hypothetical. (*Id.,* at 599.) This case does not demonstrate that an assignment of rights is not concrete, actual, conjectural, or hypothetical.

b. *Powers v. Ohio* (1991) 499 U.S. 400

This case is cited for the proposition that, as a general rule, a third party does not have standing to bring a claim asserting a violation of someone else's rights.

The issue in the case was whether a criminal defendant may object to race-based exclusions of jurors. In discussing whether a criminal defendant had standing to raise the equal protection rights of a juror excluded from service in violation of equal protection laws, the U.S. Supreme Court noted that, "[i]n the ordinary course, a litigant must assert his or her own legal rights and interests, and cannot rest a claim to relief on the legal rights or interests of third parties." This case has no bearing on the issue of the standing of an assignee.

c. *Kracht v. Perrin, Gartland & Doyle* (1990) 219 Cal.App.3d 1019

This case is cited for the proposition that employment claims are not generally considered assignable. The case does not stand for this broad assertion.

This case only involved a cause of action for legal malpractice. The appellate court confirmed that the gravamen of that plaintiff's complaint was legal malpractice and that, because of the personal nature of an attorney's representation and associated legal duties of loyalty and diligence, such claims cannot be assigned.

The *Kracht* court held that a legal malpractice cause of action is akin to a claim for personal injury, which is not assignable; i.e., "wrongs of a purely personal nature (such as injuries to the reputation or feelings of the injured party) or breaches of contracts of a purely personal nature (such as promises of marriage)." (*Id.,* at p. 1023.)

Kracht does not support finding that Plaintiff's claims, based upon a right to money, i.e., personal property, are not assignable.

d. *Jones v. Manning* (1917) 35 Cal.App. 321

In *Jones v. Manning* (1917) 35 Cal.App. 321, the plaintiffs obtained assignments from election officers who claimed entitlement to additional wages. When viewed as an action to recover for services, due to the statutory restriction on the wage in question which had been paid, the defendant's demurrer was sustained. (*Id.,* at 323.) When viewed as an action to recover for damages, the demurrer was also sustainable because, in that light, the matter was "strictly personal and unconnected with any injury to property." (*Ibid*.)

This case supports finding that recovery for services rendered is assignable as a property interest in money. The reason the demurrer was sustained with respect to the action for wages was because no additional wages could legally have been due as they were already fully paid.

e. *Morris v. Standard Oil Co*. (1926) 200 Cal. 210

This case is cited for Defendant's position that Plaintiff's causes of action for forced labor, failure to pay minimum wage, failure to reimburse business expenditures, and UCL are personal in nature.

The issue in this case was the assignability of a lien for the amount of the compensation paid to an injured employee by the insurance carrier of the employer for personal injury damages. This case does not shed light on the causes of action at issue in this case.

f. *Franklin v. Franklin* (1945) 67 Cal.App.2d 717

The issue in *Franklin* was whether a cause of action for personal injuries to one spouse was community property.

g. *Timed Out, LLC v. Youabian, Inc*. (2014) 229 Cal.App.4th 1001

This case is cited for the proposition that California courts have long held that tort claims for personal injuries, including those involving emotional harm and violations of personal liberty, are not transferable to third parties.

The *Timed Out* court noted that the assignability of things in action is now the rule. (*Id.,* at p. 1009.) Nonassignability is the exception. (*Ibid*.) "[A]nd this exception is confined to wrongs done to the person, the reputation, of the feelings of the injured party, and to contracts of a purely personal nature, like promises of marriage." (*Ibid*.) "Assignable are choses in action arising out of an obligation or breach of contract as are those arising out of the violation of a right of property [citation] or a wrong involving injury to personal or real property." (*Ibid*.)

Accordingly, the appellate court determined that a professional model's right to publicity was assignable because the claims for misappropriation of likeness involved purely pecuniary interests. The assignee did not sue for injury to the feelings, emotional distress, or personal injuries, but rather sought damages such as the "profits or gross revenues" the defendants received as a result of the unauthorized use of the models' images, the usurpation of the models' rights to commercially exploit their images, and the dilution of the commercial value of the models' likenesses. The

assignee did not allege emotional distress or disturbance to the models' peace of mind, nor did assignee seek damages for hurt feelings or injury to the models' reputation.

h. *Lazar v. Bishop* (2024) 107 Cal.App.5th 668

This case is also cited to support the broad statement that tort claims for personal injuries, "including those involving emotional harm and violations of personal liberty, are not transferable to third parties."

The appellate court in this case held that a cause of action for breach of real estate brokers' fiduciary duties, which sought only damages related to property rights and pecuniary interests, was assignable.

i. Causes of Action based upon wages and expenses

None of the above cases involve causes of action for forced labor, wages or business expenses. While the complaint intermingles discussion of the Defendant's intimidation of Watson and her resulting emotional distress, it seeks to recover, at least in part, the value of Watson's services. This request is not an injury for emotional distress, hurt feelings, or damage to one's reputation.

In reply, Defendant for the first time raises the argument that the language of the forced labor statute itself only allows "the victim" to bring the action. As this argument was not raised in the original memorandum, this court will not address it.

Defendant has not met his burden on this issue. The demurrer to the second through fourth causes of action on this basis is OVERRULED.

j. UCL cause of action

The laws at issue in *Amalgamated Transit Union v. Superior Court* (2009) 46 Cal.4th 993 were the unfair competition law, "which allows a private party to bring an unfair competition action on behalf of others (Bus. & Prof. Code, § 17203), but only if the person "has suffered injury in fact and has lost money or property as a result of the unfair competition," and the Labor Code Private Attorneys General Act of 2004, which provides that an "aggrieved employee" may bring an action to recover civil penalties for violations of the Labor Code "on behalf of himself or herself and other current or former employees...." (*Id.,* at 998.)

The Supreme Court: "First, may a plaintiff labor union that has not suffered actual injury under the unfair competition law, and that is not an "aggrieved employee" under the Labor Code Private Attorney General Act of 2004, nevertheless bring a representative action under those laws (1) as the assignee of employees who have suffered an actual injury and who are aggrieved employees, or (2) as an association whose members have suffered actual injury and are aggrieved employees? The answer is "no." Second, must a representative action under the unfair competition law be brought as a class action? The answer is "yes," for the reasons stated in the companion case of *Arias v. Superior Court* (2009) 46 Cal.4th 969, 95 Cal.Rptr.3d 588, 209 P.3d 928." (*Ibid*.)

The unfair competition law prohibits "any unlawful, unfair or fraudulent business act or practice...." (§ 17200.) Before 2004, any person could assert representative claims under the unfair competition law to obtain restitution or injunctive relief against unfair or unlawful business practices. Such claims did not have to be brought as a class action, and a plaintiff had standing to sue even without having personally suffered any injury. (*Arias v. Superior Court* (2009) 46 Cal.4th 969, 977.)

"In 2004, however, the electorate passed Proposition 64, an initiative measure. Proposition 64 amended the unfair competition law to provide that a private plaintiff may bring a representative action under this law only if the plaintiff has 'suffered injury in fact and has lost money or property as a result of such unfair competition' and "complies with Section 382 of the Code of Civil Procedure....' This statute provides that 'when the question is one of a common or general interest, of many persons, or when the parties are numerous, and it is impracticable to bring them all before

the court, one or more may sue or defend for the benefit of all.' This court has interpreted Code of Civil Procedure section 382 as authorizing class actions." (*Id.,* at pp. 977–978.)

In opposition, Plaintiff cites the Unfair Trade Practices Act, which is not applicable.

The language of the UCL requires that the plaintiff who has suffered the injury be the one to bring the action. Therefore, this cause of action is not assignable. The demurrer is SUSTAINED without leave to amend.

4. Statute of Limitations

a. Cause of Action for Quantum Meruit

Defendant argues that Plaintiff's cause of action for quantum meruit is barred by the statute of limitations. An action to recover the reasonable value of services rendered under a common count for "quantum meruit" where no enforceable contract exists is a "contract, obligation or liability not founded upon an instrument of writing," and thus subject to CCP § 339(1)'s 2-year statute of limitations. (*Maglica v. Maglica* (1998) 66 Cal.App.4th 442, 452.) Watson is alleged to have provided services to Defendant through May of 2022. This action was not filed until three years later on May 9, 2025.

In her opposition, Plaintiff argues that the statute of limitations on this cause of action is tolled or Defendant should be estopped from asserting the statute of limitations due to Defendant's own misconduct. In her declaration, she cites Civil Code section 52.5, which pertains to the forced labor cause of action. However, her declaration also lays out her position that Watson was threatened and coerced into signing a settlement agreement with Defendant which purports to limit her rights to file an action.

As noted by Plaintiff, a demurrer is not an evidentiary motion. The facts of which Plaintiff seeks to have this court take judicial notice are evidentiary in nature, which are not subject to judicial notice. However, it might be that Plaintiff is able to amend her complaint to add allegations which support finding the cause of action is tolled or that Defendant should be estopped from asserting the statute of limitations. Therefore, the demurrer to this cause of action based upon the statute of limitations is SUSTAINED with leave to amend.

b. Reimbursement of Business Expenditures

Defendant argues that Plaintiff's fourth cause of action for Failure to Reimburse Business Expenses under Labor Code section 2802 is barred by CCP section 338's three-year statute of limitations. Defendant's memorandum represents that the complaint alleges that Watson's employment ended on May 3, 2022. From this court's review of the complaint, the only time frame alleged is from January 2017 through "May of 2022." (Complaint, ¶1.) Defendant's citation to paragraphs 72 through 77 does not reveal any allegation that Watson's employment specifically ended on May 3, 2022.

The complaint alleges that, in order for Watson to discharge her duties, she was required to run errands using her own vehicle. Plaintiff estimates that Watson drove an average of 75 to 100 miles per week performing errands for Defendant for which she was not reimbursed.

This court may sustain a demurrer based on the statute of limitations or other limitations period only when the facts alleged in the complaint or matters subject to judicial notice disclose clearly and affirmatively that the cause of action is barred. (*Mitchell v State Dep't of Public Health* (2016) 1 Cal. App. 5th 1000, 1007.) It is not enough that the complaint merely shows that the action may be barred. (*SLPR, L.L.C. v. San Diego Unified Port Dist.* (2020) 49 Cal.App.5th 284, 306.) This court must treat the demurrer as admitting all material facts that are properly pleaded and resolution of the statute of limitations issue can involve questions of fact. (*Citizens for a Responsible Caltrans Decision v. Department of Transportation* (2020) 46 Cal.App.5th 1103, 1117.) When the relevant facts are not clear, such that the cause of action might be but is not necessarily time-barred, the court must overrule the demurrer. (*Ibid*.) In addition, a general

demurrer must be overruled if any valid cause of action is alleged. (*Quelimane Co., Inc. v. Stewart Title Guaranty Co*. (1998) 19 Cal. 4th 26, 38-39.)

As noted above, Watson is alleged to have worked for Defendant up until May of 2022 but this action was not filed until three years later on May 9, 2022. Thus, while the majority of business expenses appear to be barred, if Watson incurred expenses from May 10, 2022, through May 31, 2022, those are not necessarily barred.

The demurrer on this basis is OVERRULED.

5. Facts Sufficient to Constitute a Cause of Action

a. Failure to Pay Minimum Wage

Defendant argues that Plaintiff's third cause of action for Failure to Pay Minimum Wage should be dismissed for failure to state facts sufficient to constitute a cause of action. Defendant argues that Plaintiff's claim is based upon the failure to pay the median wage—not the minimum wage.

The complaint alleges that Defendant failed to pay the legally required minimum wage. It then calculates that amount using $42.42 for six (6) full time work hours each day; $63.63 for four (4) overtime work hours each day; and $84.84 for five (5) double time work hours each day. These hourly rates are based upon the average hourly rate for a Ranch Manager in Sonoma County in 2021. Regardless, the details in the complaint allege that Watson earned approximately $5 an hour – which is clearly below the minimum wage.

The demurrer on this basis is OVERRULED.

b. Sixth Cause of Action for Punitive Damages

As noted by Defendant, a request for punitive damages is not a cause of action.

In her opposition, Plaintiff concedes the error and requests leave to amend her complaint. Accordingly, the demurrer to this cause of action is SUSTAINED with leave to amend.

6. Oppression, fraud, or malice

Defendant also concludes, without analysis, that the allegations are insufficient to allege oppression, fraud, or malice. This court disagrees.

7. "Unintelligible as Pled"

Defendant argues that Plaintiff's claim is unintelligible as pled because the fourth cause of action cites Labor Code section 2298, when no such statute exists.

Presumably, Defendant intends to rely upon CCP section 430.10(f), later cited with reference to the fifth cause of action, allowing a demurrer on the ground that the pleading is uncertain. As used in this subdivision, "uncertain" includes ambiguous and unintelligible. (CCP section 430.10(f).)

A demurrer for uncertainty will be sustained only where the complaint is so bad that defendant cannot reasonably respond – i.e., defendant cannot reasonably determine what issues must be admitted or denied, or what counts or claims are directed against defendant. (*Khoury v. Maly's of Calif., Inc.* (1993) 14 Cal. App. 4th 612, 616.)

Plaintiff only references Labor Code section 2298 in the complaint's heading and at paragraph 8. The body of this cause of action cites Labor Code section 2802. Therefore, this cause of action is not so bad that Defendant cannot reasonably understand what is being alleged.

8. "Nonsense" and "harassment"

Defendant's counsel's "argument" that Plaintiff's pleading is "poorly drafted nonsense" is not a legal argument. Defendant's counsel's argument that Plaintiff's true motivation is to harass Defendant is also not a legal argument. Counsel is reminded that as an officer of the court with responsibilities to the administration of justice, "attorneys have an obligation to be professional with clients, other parties and counsel, the courts and the public. This obligation includes civility, professional integrity, personal dignity, candor, diligence, respect, courtesy, and cooperation, all of

which are essential to the fair administration of justice and conflict resolution." (California Attorney Guidelines of Civility and Professionalism.)

9. Sanctions

Defendant's request in reply for sanctions is DENIED.

10. Conclusion and Order

The demurrer to the fifth cause of action under the UCL is SUSTAINED without leave to amend. The demurrer to the first cause of action for quantum meruit and sixth cause of action for punitive damages is SUSTAINED with leave to amend. The demurrer on all other causes of action is OVERRULED.

Generally, the scope of allowable amendments is limited to leave expressly permitted in the ruling on a demurrer. Plaintiff notes in her opposition that her complaint contains various pleading errors. Therefore, in addition to leave to amend her first and sixth causes of action, **Plaintiff is also given leave to amend her complaint to clean up her allegations. Plaintiff may file a first amended complaint within 20 days of this order.**

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.

6. SCV-271746, Artap v. Sangha

Defendants Amarjit Sigh Sangha ("Sangha"), Wingsingh – Santa Rosa, Inc. ("Wingsingh") and Wingsingh – AC ("WAC")(together "Defendants" or "Sangha Parties") move for an order setting aside the defaults and default judgment entered in this case, and for leave to file an answer and cross-complaint. **The motion is GRANTED.**

1. Length of Memorandum

"Except in a summary judgment or summary adjudication motion, no opening or responding memorandum may exceed 15 pages." (Cal. Rules of Court, Rule 3.1113(d).)

2. Timeliness

Different time limits apply depending upon the ground asserted for relief from default. Defendants move pursuant to CCP sections 473(b),(d), and 473.5.

a. CCP section 473(b)

"The court may, upon any terms as may be just, relieve a party or his or her legal representative from a judgment, dismissal, order, or other proceeding taken against him or her through his or her mistake, inadvertence, surprise, or excusable neglect. Application for this relief shall be accompanied by a copy of the answer or other pleading proposed to be filed therein, otherwise the application shall not be granted, and shall be made within a reasonable time, in no case exceeding six months, after the judgment, dismissal, order, or proceeding was taken." (CCP section 473(b).)

Here, Defendants request that both the judgment and their defaults be set aside. Defendant Sangha's default was taken twice on February 14, 2023. Defendant Wingsingh's default was entered on October 16, 2023.

Thereafter, on April 22, 2024, a First Amended Complaint ("FAC") was filed.

i. Wingsingh-Santa Rosa, Inc.

Defendant Wingsingh's default on the FAC was entered on June 14, 2024. This motion was filed on August 6, 2025, which is over a year from when its default was taken. Therefore, relief under CCP section 473(b) is not available for its default.

ii. Sangha and WAC

Defendants Sangha's and WAC's defaults on the FAC were taken on June 25, 2024, which is also more than six months from that order; therefore, relief is not available under CCP section 473(b).

iii. Judgment

Judgment was entered on February 6, 2025. This motion was filed within six months of the entry of judgment; therefore, relief from the default judgment is available under CCP section 473(b). However, even if the judgment is set aside, the clerk's default would still be on the record so that the Plaintiffs could obtain another judgment, making this remedy useless.

b. CCP section 473.5

CCP section 473.5 provides: "(a) When service of a summons has not resulted in actual notice to a party in time to defend the action and a default or default judgment has been entered against him or her in the action, he or she may serve and file a notice of motion to set aside the default or default judgment and for leave to defend the action. The notice of motion shall be served and filed within a reasonable time, but in no event exceeding the earlier of: (i) two years after entry of a default judgment against him or her; or (ii) 180 days after service on him or her of a written notice that the default or default judgment has been entered.

"(b) A notice of motion to set aside a default or default judgment and for leave to defend the action shall designate as the time for making the motion a date prescribed by subdivision (b) of Section 1005, and it shall be accompanied by an affidavit showing under oath that the party's lack of actual notice in time to defend the action was not caused by his or her avoidance of service or inexcusable neglect. The party shall serve and file with the notice a copy of the answer, motion, or other pleading proposed to be filed in the action.

"(c) Upon a finding by the court that the motion was made within the period permitted by subdivision (a) and that his or her lack of actual notice in time to defend the action was not caused by his or her avoidance of service or inexcusable neglect, it may set aside the default or default judgment on whatever terms as may be just and allow the party to defend the action." (CCP section 473.5.)

Defendants' motion was filed on August 6, 2025, which is within two years of Defendants' defaults. The proof of service for the Notice of Entry of Judgment or Order states that the order was served on Defendants on February 10, 2025. This motion was filed 177 days thereafter. Accordingly, the motion pursuant to CCP section 473.5 is not time-barred.

3. Actual Notice

Notice is actual which consists in express information of a fact. (Civ. Code, § 18.) Reference to "actual notice" in CCP section 473.5 means genuine knowledge of the party litigant. (*Rosenthal v. Garner* (1983) 142 Cal.App.3d 891, 895.)

a. Service on Sangha

Proof of Service of Summons and the complaint filed for Sangha states that John RC Flowers of One Legal served Sangha by subtitled service on October 16, 2022, at 7:29 a.m. at 3361 Coach Lane, Cameron Park, CA, by leaving a copy of the summons and complaint with "Bren DOE (C/F/35-45/5'5-6'/130-160#) Front Desk – Person Most Knowledgeable."

The accompanying Declaration of Diligence states that this is the business address for Quality Inn & Suites ("Quality Inn"). The process servicer states that he attempted to serve Sangha three times prior on October 13, 14, and 16, and was told that Sangha was not there. The summons and complaint were thereafter mailed to the Quality Inn address on October 20, 2022.

Proof of Service of Summons and the FAC states that Jeremy Glaze, an independent contractor, served Sangha by substituted service on May 10, 2024, at 2:26 p.m. at the Quality Inn location by leaving a copy of the summons and FAC with "Jassi S., Person In Charge, Indian Male, 30's, Brown Hair, Brown Eyes, 5'10, 160 lbs."

The accompanying Declaration of Diligence states that the process server had attempted to serve Sangha two times prior on May 8 and 9 and was told that Sangha was not there. A copy of the summons and FAC were thereafter mailed to the Quality Inn address on May 13, 2024.

b. Service on Wingsingh

Proof of Service of Summons and the complaint states that John RC Flowers of One Legal served Wingsingh, via Sangha, by substituted service on October 13, 2022, at 6:13 p.m., by leaving a copy of summons and complaint with "Mackenzi Williams – Front Desk Host – Person In Charge of Office." There is no accompanying Declaration of Diligence. Summons and Complaint were thereafter mailed on October 19, 2022, to the Quality Inn location.

Proof of Service of Summons and the FAC states that Christopher I. Whitcomb ARRAY, an independent contractor, served Wingsingh by personal service by leaving a copy of the summons and FAC with "Alex Morgan—Registered Agent-Registered Agents Inc" at 1401 21st Street Ste. R, Sacramento, CA, on May 8, 2024, at 2:05 p.m.

c. Service on WAC

No Proof of Service of the Summons and complaint was filed for WAC.

Proof of Service of Summons and the FAC states that Jeremy Glaze served WAC, via Sangha, by substituted service by leaving a copy of the summons and FAC on May 13, 2024, at 4:20 p.m., with "Haley Volanos, Person In Charge, Caucasian Female, 30's, Brown Hair, Brown Eyes, 5'0, 150lbs." A copy of the summons and FAC were thereafter mailed to the Quality Inn location on May 14, 2024. No Declaration of Diligence is attached.

d. Sangha declaration

In his declaration, Sangha states that he lived at the Quality Inn until 2016 when he moved to Sacramento. (Sangha decl., ¶3.) On December 9, 2016, Sangha entered into a purchase and sale agreement with plaintiff U.S. Property Management, LLC ("USPM"), owned by plaintiff Michelle Artap ("Artap") for the purchase of its Santa Rosa Wingstop ("Wingstop"). (*Id.,* ¶5.) Wingsingh was formed to take title to Wingstop. (*Id.,* ¶6.)

After taking over operation of Wingstop, based upon Sangha's belief that the Wingstop's financials had been inflated, and Artap's refusal to provide supportive raw data for the financials Sangha relied on for the purchase of Wingstop, Sangha filed an action against USPM and Artap ("Artap Parties"), SCV-261461, on October 27, 2017 ("Sangha Action").

On February 13, 2018, McGovern Escrow Services, Inc. filed a Cross-Complaint in Interpleader in the Sangha Action and deposited the funds in escrow with the court.

On April 2, 2018, the Artap Parties filed a cross-complaint against McGovern Escrow Services, Inc. and Carter Asefi, dba Franzbiz Network.

On August 20, 2018, Carter Asefi filed a cross-complaint against the Artap Parties.

As the parties were set to go to trial on the Sangha Action, the COVID-19 pandemic caused Sangha to face struggling businesses and personal issues. (Sangha decl., ¶¶12-14.) As a result of the struggles and mounting attorney fees, in early 2021 Sangha decided to cease prosecuting the Sangha Action. (*Id.,* at ¶14.)

Sangha states that after abandoning the Sangha Action, he continued to receive documents and mailings that were sporadically left for him at his drop box at the Quality Inn. (*Id.,* ¶16.) He also recalls receiving at least one mailing from Registered Agents Inc. (*Ibid*.) When Sangha received these documents, he believed they were related to the Sangha Action, and not any new lawsuit. (*Ibid*.) He thought he was simply being provided with courtesy copies of filings as the Artap Parties continued prosecuting their cross-complaint against the broker and escrow agent. (*Ibid*.)

On July 14, 2025, he received notice from his bank that funds in the amount of approximately $15,000 had been levied on his account. (*Id.,* ¶17.) Thereafter, he received a civil

subpoena mailed to him at his home in Sacramento. (*Ibid*.) Sangha states that it was only after notice of the levy and receiving the subpoena at home that he investigated and found that the Artap Parties had filed this lawsuit. (*Ibid*.)

Sangha states: "My discovery of the 2022 Artap Action [this action], including the defaults and default judgment, was a complete surprise to me for at least three reasons in particular. First, during the time I was actively prosecuting the Sangha Action, I knew that the Artap Parties had filed a separate action against the Sangha Parties in 2020. My counsel sent a letter to their counsel informing him that the Artap Parties had no right to file any such separate suit against the Sangha Parties, and demanded that they dismiss the Sangha Parties from the lawsuit. In response, counsel for the Artap Parties did in fact dismiss the Sangha Parties from that lawsuit. Second, shortly after dismissing the Sangha Parties from that separate lawsuit, the Artap Parties attempted to amend their cross-complaint in the Sangha Action to assert claims against the Sangha Parties. The judge denied that motion, and it was my understanding from the ruling that the Artap Parties had forfeited any right they may have had to pursue any claims against the Sangha Parties arising out of the purchase transaction. Finally, I knew the Artap Parties had my cell phone number, home address, email address, and other information. Specifically, between 2016 – 2017, I had several telephone discussions (through my cell phone) and email exchanges (through my personal email address) with Artap. I would never intentionally disregard, and fail to respond to, a complaint, let alone one that seeks damages in excess of $3,000,000.00, and I would expect that the Artap Parties would certainly know that and would have at least attempted to contact me or my counsel personally prior to taking any defaults. Yet, at no time did the Artap Parties contact me through any of these means. It is also my understanding that at no time did they reach out in any way to my counsel in the Sangha Action, C. Jason Smith, to inform him of the existence of the Sangha Action or their intent to take any defaults or a default judgment." (*Id.,* ¶18.)

e. Smith Declaration

In his declaration, attorney Christian Jason Smith confirms Sangha's account of the second action filed by Artap, Smith's request that the Sangha Parties be dismissed from that action, and the case's subsequent dismissal. (Smith decl., ¶¶7-10.) He also confirms Sangha's explanation of his decision to cease prosecuting the Sangha Action. (*Id.,* ¶13.) Mr. Smith states that the Artap Parties' attorney, Arthur Liu, did not contact his office about the 2022 Artap Action. (*Id.,* ¶14.)

f. Legal Standard

"It is the policy of the law to favor, wherever possible, a hearing on the merits, and appellate courts are much more disposed to affirm an order where the result is to compel a trial upon the merits than they are when the judgment by default is allowed to stand and it appears that a substantial defense could be made. Stated another way, the policy of the law is to have every litigated case tried upon its merits, and it looks with disfavor upon a party, who, regardless of the merits of the case, attempts to take advantage of the mistake, surprise, inadvertence, or neglect of his adversary." (*Weitz v. Yankosky* (1966) 63 Cal.2d 849, 854–855.)

"[W]hen a party in default moves promptly to seek relief, very slight evidence is required to justify a trial court's order setting aside a default. (*Shamblin v. Brattain* (1988) 44 Cal.3d 474, 478.)

Sangha's declaration establishes he was unaware that this action had been filed. That all documentation was served at the Quality Inn supports Sangha's understanding that no new action had been filed. If such new action had been filed, it is reasonable to expect the Artap Parties would attempt to effectuate personal service on Sangha at his home address. After learning of this action, Sangha promptly moved to have the default judgment set aside.

g. Artap's Objections

Artap's objections, numbers 1, 11, and 12 are overruled.

Artap's objections, numbers 4 and 5 are moot as Exhibits 52 and 53 were not provided with the initial requests for judicial notice.

Artap's objections, numbers 8, 9, 10, and 13 are sustained.

h. Defendants' requests for judicial notice

Defendants' requests for judicial notice are granted to the extent this order mentions the subject documents. The court declines to take judicial notice of the remaining requests as being nonessential to the determination of the motion.

i. Artap's Evidence in Opposition

The Artap Parties have not provided any evidence that Sangha did in fact have actual notice of this action.

j. Artap's Opposition

In opposition, the Artap Parties attempt to discredit Sangha. In addition, they argue that, even if he is being truthful, his failure to review the documents served upon him was inexcusable neglect.

CCP section 473.5 requires the declaration in support of the motion to establish that the lack of actual notice was not caused by avoidance of service or inexcusable neglect. (CCP § 473.5(b).) To entitle a party to relief, the acts which brought about the default must have been the acts of a reasonably prudent person under the same circumstances. (*Jackson v. Bank of America* (1983) 141 Cal.App.3d 55, 58.)

The *Jackson* case is factually distinguishable from the case at hand. In that case, the bank moved for relief from default after its counsel believed the case was moot such that no answer was filed on the bank's behalf. The court stated: "the bank candidly recognizes that because of its assumption that the case was moot, it considered itself under no obligation to file an answer. Such an assumption has its attendant risk: the bank was wrong in its assumption and its neglect was not of the excusable variety." (*Ibid*.)

Here, there is no evidence that Sangha was attempting to avoid service. He lived in Sacramento. The Artap Parties were attempting to personally serve him in Cameron Park at one of his businesses, where he states he was rarely present.

All that is needed is "slight evidence" to justify setting aside a default. Sangha's declaration appears credible. This court is satisfied that a reasonably prudent person in Sangha's position with the circumstances present at that time could reasonably assume that the court documents he recovered from his drop box at the Quality Inn were from the case he was aware of—not from a new lawsuit, as no new summons and complaint was personally served upon him.

4. Additional Arguments

Based upon the above determination, Defendants' additional arguments are moot.

5. Conclusion and Order

Defendants' motion is GRANTED. Defendants are directed to file their responsive pleading within 15 days of this order.

Defendants' 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.