TENTATIVE RULINGS
LAW & MOTION CALENDAR
Wednesday, February 4, 2026 3:00 p.m.
Courtroom 17 – 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**, 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. 24CV01866, O'Donnell v. Humphrey

Judge Gaskell recuses herself pursuant to Code of Civil Procedure section 170.1 in the above-mentioned case. Notice of recusal, reassignment, and new hearing date on the motion to be served on the parties.

2. 24CV03857, Simpson v. Burnbank Housing Property Corporation

The Court **GRANTS** Plaintiff Ariael Simpson's ("Plaintiff") unopposed motion for preliminary approval of class and representative PAGA action settlement. The Final Fairness Hearing shall be held on Wednesday, **May 13, 2026**, at 3:00 p.m. in Department 17.

I. PROCEDURAL HISTORY

Plaintiff brought this class action alleging labor code violations against Defendant Burbank Housing Property Corporation ("Defendant") by way of their employment practices and policies. (Memorandum of Points & Authorities ["MPA"], 3:8-14.) After Plaintiff filed the Complaint, the parties exchanged information informally including statistical data and written policies and procedures relating to

wages, meal breaks, rest breaks, overtime compensation, and expense reimbursement. (MPA, 4:11-20.) The parties then participated in a private mediation, which included arms-length, informed negotiations. (*Id*. at 4:19-20.) The parties ultimately agreed to settle this action on an all-inclusive basis for $325,000.00. (MPA, 2:5-6.) Now, Plaintiff moves unopposed for preliminary approval of the class and representative PAGA action settlement.

II. ANALYSIS

Legal Standard for Preliminary Approval

A settlement or compromise of an entire class action, or of a cause of action in a class action, or as to a party, requires the approval of the court after hearing. (C.R.C., Rule 3.769(a).) Any party to a settlement agreement may serve and file a written notice of motion for preliminary approval of the settlement. (C.R.C., Rule 3.769(c).) The settlement agreement and proposed notice to class members must be filed with the motion, and the proposed order must be lodged with the motion. (*Ibid*.) The court may make an order approving or denying certification of a provisional settlement class after the preliminary settlement hearing. (C.R.C., Rule 3.769(d).) If the court grants preliminary approval, its order must include the time, date, and place of the final approval hearing; the notice to be given to the class; and any other matters deemed necessary for the proper conduct of a settlement hearing. (C.R.C., Rule 3.769(e).) Additionally, rule 3.769(f) states that, "if the court has certified the action as a class action, notice of the final approval hearing must be given to the class members in the manner specified by the court. The notice must contain an explanation of the proposed settlement and procedures for class members to follow in filing written objections to it and in arranging to appear at the settlement hearing and state any objections to the proposed settlement."

The court must determine if the settlement is fair, adequate, and reasonable. (C.R.C., Rule 3.769(g); *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801.) A presumption of fairness exists where: 1) the settlement is reached through arm's length bargaining; 2) investigation and discovery are sufficient to allow counsel and the court to act intelligently; 3) counsel is experienced in similar litigation; and 4) the percentage of objectors is small. (*Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1802.) The test is not the maximum amount plaintiff might have obtained at trial on the complaint but, rather, whether the settlement is reasonable under all of the circumstances. (*Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 250.) In making this determination, the court considers all relevant factors including "the strength of plaintiffs' case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, the experience and views of counsel, the presence of a governmental participant, and the reaction of the class members to the proposed settlement." (*Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 128.)

Plaintiff's Motion for Preliminary Approval

Plaintiff moves unopposed for preliminary approval of the Court for the below terms outlined under the parties' proposed Settlement Agreement attached as Exhibit B to the Declaration of counsel Otkupman.

a. Class Members

The Class is all current and former non-exempt employees of Defendant who worked for Defendant in California as a non-exempt employee at any time during the Class Period, from June 28, 2020, through preliminary approval of the Settlement by the Court. (Otkupman Decl., Ex. B, Settlement Agreement, §§ 1.5, 1.12.)

b. Settlement

The Settlement means the disposition of this action effected by the parties' agreement and the Judgment
entered by the Court after final approval, for the maximum settlement amount of $325,000.00 to be paid by Defendant. (Otkupman Decl., Ex. B, Settlement Agreement, §§ 1.1, 1.19, 1.21, 1.22, 1.25, 1.28, 1.44.)

c. Administrator

The parties have agreed to ILYM Group as Settlement Administrator and seek approval of an administrator expenses payment up to $15,000.00. (*Id*. at Ex. B, Settlement Agreement, §§ 1.2, 1.3, 3.2.3.)

d. Attorney Fees and Costs

Plaintiff seeks approval of Otkupman Law Firm, A Law Corporation, as Class Counsel and an approval of attorney fees that will be up to $20,000.00. (*Id*. at Ex. B, Settlement Agreement, §§ 1.6, 1.7, 3.2.2.)

e. PAGA/LWDA Allocation

The PAGA Payment shall be $15,000.00 with 75% for the LWDA award ($10,000.00) and 25% for the Individual PAGA Aggrieved Employee award ($5,000.00). (*Id*. at Ex. B, Settlement Agreement, §§ 1.34, 3.2.5.)

f. Class Representative Service Payment

Plaintiff as Class Representative seeks approval of up to $10,000.00 for Plaintiff's Class Representative Service Payment. (*Id*. at Ex. B, Settlement Agreement, §§ 1.13, 3.2.1.)

Application

Prior to settlement, the parties engaged in informal discovery and participated in private, arms-length mediation, and determined that the proposed settlement was fair and reasonable. (MPA, 11:3-19.) Plaintiff argues that the settlement amount and the payment and expenses requested are presumptively fair and reasonable under all relevant circumstances considering Plaintiff's claims. (*Id*. at pp. 10-19.) No party has filed any objection or opposition to the preliminary approval motion. Furthermore, the proposed notice attached to the Declaration of Otkupman as Exhibit C appears thorough and sufficient to

adequately notify class members pursuant to Rule 3.769. For these reasons, the Court will grant preliminary approval.

III. CONCLUSION

Plaintiff's motion for preliminary approval and certification of the class, the Settlement Agreement, and class notice is **GRANTED**. The Final Fairness Hearing is hereby set for **Wednesday, May 13, 2026, at 3:00 p.m.** in Department 17. The Court will sign the proposed order lodged with the motion.

3. 24CV04866, Tranchina v. Kiser

Defendants Carolyn Kiser, individually and as trustee of the Carolyn Kiser Trust, William Montini, Fred Montini, Patricia Poncia, and Joe Tassano (together "Defendants") demur generally to the Second Cause of Action alleged in Plaintiff Robert Tranchina's First Amended Complaint ("FAC"). The demurrer is **OVERRULED**.

I. PROCEDURAL HISTORY

Plaintiff alleges that Defendants owned and controlled real property located at 501 E. Watmaugh Rd., Sonoma, California (the "Property"). (FAC, ¶ 17.) Defendants had Plaintiff maintain the property for money, which Plaintiff alleges created an employment relationship. (*Id*. at ¶ 18.) Plaintiff worked as a farmhand and unskilled laborer, operating a small tractor owned by Defendants to perform the work needed. (*Id*. at ¶¶ 19-21.) Plaintiff's foot was crushed by a large steel item that fell from the tractor, which Plaintiff alleges Defendants caused due to their inadequate instructions and lack of proper training in using the tractor. (*Id*. at ¶¶ 22-26.) Plaintiff's FAC alleges two causes of action for Negligence and Failure to Carry Worker's Compensation Insurance under Labor Code section 3706. (FAC, ¶¶ 27-67.)

Defendants now demur to the Second Cause of Action for Failure to Carry Worker's Compensation Insurance in violation of Labor Code section 3706 alleged in the FAC. (Demurrer Memorandum of Points and Authorities ["MPA"], 1:21-27.) They argue that Plaintiff's discovery responses establish that any alleged work Plaintiff did on the Property was agreed to specifically with, and for the benefit of, Robert Montini, who is now deceased. (MPA, 1:28, 2:1.) Plaintiff opposed the demurrer and Defendants submitted a joint reply.

II. REQUEST FOR JUDICIAL NOTICE

The court must take judicial notice of any matter requested by a party, so long as it complies with the requirements under C.C.P. § 452. (C.C.P. § 453.) The Court may take judicial notice of "facts and propositions that are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy." (C.C.P. § 452(h).)

Pursuant to the above, the Court **GRANTS** judicial notice of:

1. Plaintiff's Form Interrogatory Set One responses, attached as Exhibit A to Defendants' Request for Judicial Notice; and

2. Plaintiff's Request for Admission Set One responses, attached as Exhibit B to Defendants' Request for Judicial Notice.

III. DEMURRER

Legal Standard

I. 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 judicially noticed facts are also disregarded. (*Coshow 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, but the distinction between conclusions of law and ultimate facts is not at all clear and involves at most a matter of degree. (*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. (*Blank v. Kirwan* (1985) 39 Cal.3d 311, 318.) The burden of proving that there is a reasonable possibility to cure the defect is squarely on the party that filed the pleading, but if that burden is met and leave to amend is not granted, then that constitutes an abuse of discretion by the trial court. (*Ibid*.)

II. Failure to Provide Worker's Compensation

If any employer fails to secure the payment of compensation, any injured employee or his dependents may bring an action at law against such employer for damages, as if this division did not apply. (Lab. Code § 3706.) An "employee" means every person in the service of an employer under any appointment or contract of hire or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully employed. (Lab. Code § 3351(a).)

Also, "any person employed by the owner or occupant of a residential dwelling whose duties are incidental to the ownership, maintenance, or use of the dwelling, including the care and supervision of children, or whose duties are personal and not in the course of the trade, business, profession, or occupation of the owner or occupant" are considered employees. (Lab. Code § 3351(d).) Someone qualifying as an employee under Lab. Code section 3351(d) may be excluded as an employee for the purposes of bringing a claim against their employer for injuries if during the 90 calendar days immediately preceding the date of injury, the employment was for less than 52 hours, or for wages not more than $100.00. (Lab. Code § 3352(a)(8).)

Second Cause of Action for Failure to Provide Worker's Compensation

Defendants argue that the Second Cause of Action fails to state facts to constitute a claim for

failure to provide for worker's compensation insurance because the FAC does not adequately allege that Plaintiff was moving defendants' employee. (MPA, 5:26-28, 6:1-3.) Defendants state that the FAC pleads no facts to establish that Plaintiff was an employee rather than an independent contractor. (*Id*. at 6:20-28, 7:1-26.)

Plaintiff argues that in the FAC, he has properly pleaded that he was an employee at the time of incident, that he was paid for work on the premises in excess of $100.00 for 52 hours of labor during the 90 days preceding the incident, and that Defendants failed to carry the requisite worker's compensation insurance. (Opposition, 1:27-28, 2:1-9.) Thus, the FAC alleges facts sufficient for the pleadings stage.

Defendants argue in the Reply that Plaintiff's duties as a farmhand, unskilled laborer, or maintenance person do not satisfy the requirements necessary to be considered an employee under the Labor Code. (Demurrer, 1:24-28, 2:1-25.) Furthermore, they argue the FAC failed to establish either that Plaintiff worked more than 52 hours in a qualified role or was paid in excess of $100.00 in the 90 days preceding the incident. (*Id*. at 3:26-28, 4:1-10.)

The Court finds that, at the pleadings stage, Plaintiff has sufficiently alleged facts in the FAC to support a claim for failure to provide worker's compensation insurance in paragraphs 54 through 67. As such, the demurrer as to this cause of action is **OVERRULED**.

III. CONCLUSION

The demurrer is **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).

4. 24CV05656, Clow v. Garcia Family Vineyards, Inc.

The hearing on Plaintiff Clow's motion to compel arbitration is **CONTINUED** to Wednesday, April 29, 2026, at 3:00 P.M. in Department 17, per Plaintiff's request to continue the hearing to allow sufficient notice and service of the motion on newly added defendants.

5-9. 25CV00313, Gonzales v. F. Korbel & Bros Inc.

The Court previously continued the hearing date for Plaintiff's three motions to compel during the hearing on January 14, 2026. Plaintiff's three motions to compel shall be heard on **Friday, February 27, 2026, at 3:00 p.m.** in Department 17.

The Court, satisfied with Plaintiffs' Response to Order to Show Cause and with the parties' amended moving papers, opposition, and reply, **VACATES** the Order to Show Cause regarding inaccurate citations. The Court shall not impose sanctions of $1,500.00 against either party.

Plaintiff Edward Gonzales' amended motion for leave to file the Second Amended Complaint ("SAC") is **GRANTED**, per Code of Civil Procedure ("C.C.P.") section 473. Plaintiff shall file and serve the SAC on all parties within ten (10) days of this Court's order.

I. FACTS & PROCEDURE

Plaintiff filed a Class Action Complaint on January 14, 2025, alleging various Labor Code violations against Defendant F. Korbel & Bros Inc. ("Defendant"). (Motion, 2:26-28, 3:1-3.) The First Amended Class and Representative Action Complaint ("FAC") was filed to add a second plaintiff, Frank Ambrosi (whose claims were later dismissed without prejudice), as well as a cause of action under the Private Attorneys General Act ("PAGA"). (*Id*. at 3:3-6.) Plaintiff now seeks to add two new plaintiffs, Jill Hong and Mario Huerta, as additional class representatives and does not propose to add any new claims. (*Id*. at pp. 5-6.) Plaintiff requests leave to file the proposed SAC. (Stone Decl., ¶ 2, Exhibit A.) Defendant opposes the motion.

After the Court issued an Order to Show Cause regarding inaccurate citations in the parties' moving papers and opposition, the parties amended those papers. The Court now considers the amended motion, opposition, and reply.

II. ANALYSIS

Legal Standard

Motions for leave to amend pleadings are in discretion of the court, which may, in furtherance of justice, and on such terms as may be proper, allow a party to amend any pleading. (C.C.P. § 473.) Additionally, the court may allow the amendment of any pleading at any time before or after trial begins if it is in the furtherance of justice. (C.C.P. § 576.) C.C.P. section 473 and California Rules of Court, rule 3.1324 require that the moving party accompany the motion for leave to amend with a copy of the amended pleading to be filed if leave is granted. When the plaintiff is the moving party, proximity to the trial date is not a ground for denial absent a showing of prejudice to defendant. (See *Mesler v Bragg Mgt. Co.* (1985) 39 Cal.3d 290, 297.) Even if some prejudice is shown, leave to amend may be permitted upon conditions imposed by the Court, such as, continuation of the trial date, reopening discovery, or ordering the party seeking amendment to pay opposing party's costs and fees incurred in preparing for trial. (C.C.P. §§ 473, 576; *Fuller v Vista Del Arroyo Hotel* (1941) 42 Cal.App.2d 400.)

Plaintiff's Motion for Leave

Plaintiff seeks leave to add additional class representative plaintiffs whose claims are under the scope of the FAC and does not seek to add any additional legal theories or causes of action. (Motion, 6:11-17.) Plaintiff also mentions that Defendant has deposed Plaintiff about his relationship to the proposed plaintiffs already. (*Ibid*.) Plaintiff argues that the motion is timely and proper and that no unfair prejudice will result to Defendant because the proposed SAC does not substantially change factual allegations or legal theories and because no trial date has been set, so there will be no delay to trial. (*Id*. at 7:13-18.) Furthermore, there will be no meaningful increase in the burden of discovery as well because trial has not been set yet forcing a deadline on the parties' discovery. (*Ibid*.)

Opposition

Defendant requests that the Court deny leave to amend to preserve Defendant's progress made in

this litigation because substantial discovery has already been conducted as to Plaintiff, but adding the new plaintiffs will require a modification in the class definition, which is currently specific to Plaintiff's prior role as a security officer with Defendant, but which will have to be expanded to include the new proposed plaintiffs' roles. (Opposition, pp. 12-14.) Due to these reasons, Defendant argues that it would be prejudiced as well by the Court allowing leave to amend. (*Ibid*.)

Application

The Court will grant Plaintiff leave to file the SAC. As trial has not yet been set, any prejudice to Defendants is insufficient to overcome California's public policy of liberally allowing leave to amend complaints. Furthermore, it will be in the interests of judicial economy to allow proposed plaintiffs to have their claims adjudicated in one matter rather than forcing separate actions. As a result, the Court will grant the motion.

III. CONCLUSION

Plaintiff's motion is **GRANTED**. Plaintiff shall file and serve the proposed SAC within 10 days of this Court's order. Plaintiff shall also submit a proposed order consistent with this tentative ruling and in accordance with California Rules of Court, Rule 3.1312.

10. 25CV00393, Lafortune v. Adams

Defendant Robert M. Eisenhauer ("Eisenhauer") demurs to the Second and Third Causes of Action in Plaintiffs Noel, Michael, Jonathan LaFortune, and Michele Yockey's (together "Plaintiffs") First Amended Complaint ("FAC"). The demurrer is **SUSTAINED with leave to amend**. The Second Amended Complaint shall be filed within 20 days of this Court's order.

I. PROCEDURAL HISTORY

Decedent Charles LaFortune ("Decedent") was involved in a motor vehicle collision with Defendant Richard Earl Adams' ("Adams") vehicle driving westbound on State Route 12. (FAC, ¶¶ 1-7.) Defendant Adams allegedly failed to stop his vehicle and rear-ended Decedent's vehicle at a high speed, which resulted in fatal injuries to Decedent. (*Id*. at ¶¶ 7-8.) Decedent was survived by his wife and children who are all named Plaintiffs in this matter. (*Id*. at ¶¶ 9-10.)

Eisenhauer was named as a defendant in this action because he allegedly owns, operates, manages, and controls Defendant Eisenhauer Construction, Inc., which company owned the vehicle that Adams was driving at the time of the collision. (FAC, ¶¶ 12-13.) Against Eisenhauer, the FAC alleges the Second Cause of Action for negligence and wrongful death based on alter ego liability and the Third Cause of Action for survival action. (*Id*. at ¶¶ 30-39.)

Eisenhauer demurs to the FAC as to both the Second and Third Causes of Action on the basis that the FAC does not allege facts sufficient to constitute these causes against him per Code of Civil Procedure

("C.C.P.") 430.10(e)-(f), and because the allegations in the FAC do not support Eisenhauer was the "alter ego" of Eisenhauer Construction, Inc., such that he may be held personally liable for these two causes of action. (Demurrer, 3:1-16.) Plaintiffs oppose the demurrer.

II. DEMURRER

Legal Standard

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 judicially noticed facts are also disregarded. (*Coshow 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, but the distinction between conclusions of law and ultimate facts is not at all clear and involves at most a matter of degree. (*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. (*Blank v. Kirwan* (1985) 39 Cal.3d 311, 318.) The burden of proving that there is a reasonable possibility to cure the defect is squarely on the party that filed the pleading, but if that burden is met and leave to amend is not granted, then that constitutes an abuse of discretion by the trial court. (*Ibid*.)

Plaintiffs' Second Cause of Action for Negligence/Wrongful Death (Alter Ego Liability)

Plaintiffs allege that Eisenhauer Construction, Inc. and Eisenhauer were vicariously and directly liable for the acts of Adams for unknown reasons because they allowed Adams to use their vehicle as their agent and because Adams was in the course and scope of his employment relationship with Eisenhauer and Eisenhauer Construction, Inc. (FAC, ¶ 32.) Furthermore, they allege that Eisenhauer uses the corporate assets as his own, commingling corporate funds for his personal funds, and failing to observe corporate formalities, so Eisenhauer is liable based on alter ego liability. (*Id*. at ¶ 33.)

Eisenhauer argues that, to recover on an alter ego theory, Plaintiffs must allege sufficient facts to show a unity of interest and ownership, and an unjust result if the corporate is treated as the sole actor. (Demurrer, 5:22-27.) Eisenhauer states in the motion that Plaintiffs have not plead any facts that if successful against Eisenhauer Construction Inc., an inequitable result will occur if Eisenhauer and the corporation are both not treated one and the same. (*Id*. at 6:11-27.)

Plaintiffs argue that they have clearly alleged sufficient facts for their wrongful death cause of action based on alter ego liability against Eisenhauer for the pleadings stage as Plaintiffs have not had the ability obtain additional facts to conduct discovery and obtain additional facts to support the theory.

Though Plaintiffs have not alleged sufficient facts to support the alter ego theory of liability against Eisenhauer personally for the wrongful death claim, they did allege the theory itself and there may

be a reasonable possibility of amending the FAC to include sufficient facts to support that theory. As such, the demurrer is **SUSTAINED with leave to amend** as to the Second Cause of Action.

Plaintiffs' Third Cause of Action for Survival Action (C.C.P. § 377.20.)

The FAC alleges a survival cause of action against all defendants in paragraph 35 to 39 stating that Decedent died as a direct and proximate result of all defendants' negligence. (FAC, ¶ 39.) No facts are alleged as to each defendant for all separate elements of negligence.

For the same reasons stated above regarding the wrongful death cause of action, Eisenhauer argues that Plaintiff has not alleged sufficient facts to show that justice cannot be accomplished unless Eisenhauer is not a defendant in this matter by connection to Eisenhauer Construction, Inc. (Demurrer, 6:28, 7:1.)

Plaintiffs did not directly address the allegations in the survival cause of action, but rely on the alter ego liability theory in order to also allege that cause of action against Eisenhauer personally.

Thus, for the same reasons stated above as the wrongful death claim, the demurrer is **SUSTAINED with leave to amend** as to the Third Cause of Action.

III. CONCLUSION

Based on the foregoing, the demurrer is **SUSTAINED with leave to amend**. Plaintiffs shall file and serve the Second Amended Complaint within 20 days of this Court's order. Eisenhauer 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).

11. 25CV02941, Kren v. Castro

The Court rules as follows on Plaintiff Christopher Kren's unopposed discovery motion filed against Defendant Rudy V. Miranda ("Miranda"):

1. Plaintiff's motion to compel Miranda's verified, objection-free responses to set one of Form Interrogatories, Special Interrogatories, and Requests for Production of Documents is **GRANTED**.

2. Plaintiff's request to deem set one of Requests for Admission as admitted against Miranda is **GRANTED**.

Sanctions are awarded in the amount of **$1,280.00** for the motion. Miranda shall serve verified, objection-free responses to the above discovery requests, except for the Requests for Admissions which have been deemed as admitted, within 20 days of this Court's order. Miranda shall also produce any documents responsive to Requests for Productions in a code-complaint manner.

I. PROCEDURAL HISTORY

Plaintiff commenced this action against both Defendants to collect back rent owed from December 1, 2023, through July 22, 2024, when Defendants resided at Plaintiff's property located at 7833 Revard Court, Cotati, California, pursuant to a written rental agreement. (Motion, 2:26-28, 3:1; Zyromski Decl., ¶ 2.)

After filing this action, Plaintiff served set one of discovery requests on Miranda, including Form Interrogatories, Special Interrogatories, Requests for Admissions, and Requests for Production of Documents. (Motion, 3:12-14; Zyromski Decl., ¶ 3.) These requests were served on July 23, 2025, and to date Miranda has failed to respond to them, to seek a protective order, or to respond to any of Plaintiff's counsel's efforts to meet and confer via phone call or written correspondence about the lack of response. (Motion, 3:21-28, 4:1-8; Zyromski Decl., ¶ 4.)

Despite proper service of the moving papers, Miranda has not opposed the motion.

II. ANALYSIS

Legal Standard

a. Interrogatories

A party who fails to serve a timely response to interrogatories absent evidence showing mistake, inadvertence, or excusable neglect, waives any right to object to the interrogatory, including objections based on privilege or work product, and the court shall impose monetary sanctions upon the party who unsuccessfully opposes a motion to compel initial the responses. (C.C.P. § 2030.290.)

b. Demand for Production of Documents

A party to whom a document demand is directed must respond to each item in the demand with an agreement to comply, a representation of inability to comply, or an objection. (C.C.P. §2031.210(a).) If a responding party is not able to comply with a particular request, or part thereof, that party "shall affirm that a diligent search and a reasonable inquiry has been made in an effort to comply with that demand." (C.C.P. § 2031.230.) If the responding party fails to timely respond, the demanding party may move for an order compelling a response. (C.C.P. § 2031.300(b).)

c. Requests for Admission

A party who "fails to serve a timely response" to requests for admissions waives any objection to those requests. (C.C.P. § 2033.280(a).) After a lack of response, the requesting party can move for an order "that the genuineness of any documents and the truth of any matters specified in the requests be deemed admitted." (C.C.P. § 2033.280(b).) However, if the Court finds that the lack of response was the result of mistake, inadvertence, or excusable neglect, and that the party who obtained the admission will not be substantially prejudiced in maintaining the party's action or defense on the merits, then the Court may permit leave to withdraw or amend an admission after notice to all parties. (C.C.P. § 2033.300(a)-(b).)

d. Discovery Sanctions

Under the Discovery Act, the court may impose sanctions after notice to any affected party, person, or attorney, and after an opportunity for hearing, against anyone engaging in conduct that is a misuse of the discovery process. (C.C.P. § 2023.030(a).) Sanctions may include reasonable expenses, including attorney fees. (*Ibid*.) A request for sanctions under the Discovery Act shall, in the notice of motion, identify every person, party, and attorney against whom the sanction is sought, and specify the type of sanction sought, shall be supported by a memorandum of points and authorities, and shall be accompanied by a declaration setting forth facts supporting the amount of any monetary sanction sought. (C.C.P. § 2023.040.)

The Court may also award sanctions under the Discovery Act "in favor of a party who files a motion to compel discovery, even though no opposition to the motion was filed, or opposition to the motion was withdrawn, or the requested discovery was provided to the moving party after the motion was filed." (California Rules of Court, Rule 3.1348(a).) At the same time, "the failure to file a written opposition or to appear at a hearing or the voluntary provision of discovery shall not be deemed an admission that the motion was proper or that sanctions should be awarded." (C.R.C., Rule 3.1348(b).)

Plaintiff's Motion to Compel

Plaintiff seeks to compel Miranda's objection-free and verified responses to the discovery requests as Miranda has waived all objections by failing to timely serve any responses. (Motion, 4:10-28, 5:1-5.) Plaintiff also seeks that the Requests for Admission be deemed as admitted against Miranda. (*Ibid*.)

Plaintiff seeks sanctions of $1,280.00 in sanctions for the motion, which includes: (1) Plaintiff's counsel's legal fees of $875.00 for 2.5 hours of work on the motion at a rate of $350.00; (2) paralegal fees of $345.00 for 2.3 hours of work at a rate of $150.00; and (3) $60.00 in filing fees for the motion. (Zyromski Decl., ¶ 5.)

As mentioned above, there was no opposition filed.

Application

The Court finds that Plaintiff's unopposed motion is warranted as are the sanctions requested due to Miranda's complete lack of engagement in the discovery process. Though Miranda is a self-represented party, Miranda nonetheless must abide by the requirements under the Discovery Act for responding to discovery requests and meeting and conferring in good faith with counsel if any issues arise in responding to those requests. Miranda has not fulfilled those obligations and has also not opposed this motion to offer any substantial justification for the lack of response. Thus, the Court will grant the motion and the reasonable sanctions as requested.

III. CONCLUSION

As stated above, Plaintiff's motion is **GRANTED** as follows:

1. Plaintiff's motion to compel Miranda's verified, objection-free responses to Form Interrogatories, Special Interrogatories, and Requests for Production of Documents is **GRANTED**.

2. Plaintiff's request to deem the Requests for Admission as admitted against Miranda is **GRANTED**.

Sanctions are awarded in the amount of **$1,280.00** as requested. Miranda shall serve verified, objection-free responses to the above discovery requests except for the Requests for Admissions which have been deemed as admitted within 20 days of this Court's order on the motion. Miranda shall also produce any documents responsive to Requests for Productions in a code-complaint manner. Miranda 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).

12. SCV-273458, Hall v. Koster

The unopposed motion for summary judgment, or in the alternative summary adjudication, of Defendant St. Joseph Health Northern California, LLC doing business as Providence Redwood Memorial Hospital ("PRMH") against Plaintiffs Brenda, Robert, and Ashlynn Hall's ("Plaintiffs") Complaint is **GRANTED** per Code of Civil Procedure ("C.C.P.") section 437c.

I. PROCEDURAL HISTORY

Plaintiffs alleged that Brett Hall ("Decedent") died on June 12, 2022, of irreversible lung toxicity due to the acts and omissions of named Defendants who were Decedent's medical providers. (Complaint, ¶ 1.) PRMH treated Decedent for complaints of shortness of breath and inability to take a deep breath on April 28, 2022. (Memorandum of Points and Authorities ["MSJ"], 5:24-26; Undisputed Material Fact ["UMF"] No. 2.) Nurse Bernstein triaged Decedent noting his medical history of leukemia and testicular cancer, his recent chemotherapy a few weeks prior to presenting at PRMH's Emergency Department, and his medication for chemotherapy, all of which were known to cause "lung issues." (MSJ, 5:26-28, 6:1-3; Index of Exhibit, Ex. 2, PRMH 780-782.)

Plaintiff Brenda is Decedent's mother and Plaintiffs Robert and Ashlynn are Decedent's children. (Complaint, ¶¶ 12-14.) Plaintiffs filed this action against named Defendants alleging medical negligence/wrongful death and a survival action on behalf of Decedent's estate. (*Id*. at ¶¶ 1-28.) Plaintiffs claim that all Defendants were negligent in their care and caused Decedent's death due to their carelessness. (*Id*. at ¶¶ 1-28.)

PRMH moves for summary judgment on the grounds that PRMH's care and treatment of Decedent complied with the applicable standard of care as a matter of law and that PRMH's care and treatment did not
cause or contribute to Decedent's alleged injuries or death. (MSJ, 5:2-10.)

Per the Proof of Service dated July 18, 2025, all parties were served electronically with the moving papers and notice of hearing. Per Plaintiffs' Ex Parte Application and the Stipulation of the Parties, the Court vacated the initial hearing date and continued the hearing to February 4, 2026, to allow Plaintiffs additional time to depose nurses employed by PRMH and prepare a more complete and meaningful opposition. Regardless, Plaintiffs failed to file a timely opposition to the motion before the February 4 hearing date. Thus, the Court considers the unopposed motion below.

II. ANALYSIS

Legal Standard

I. Motion for Summary Judgment or Adjudication

Per Code of Civil Procedure ("C.C.P.") section 437c(a), any party may move for summary judgment in any action or proceeding if it is contended that the action has no merit or that there is no defense to the action or proceeding. Summary judgment "shall be granted if all the papers submitted show that there is no triable issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." (C.C.P. § 437c(c).)

A party moving for summary judgment bears the burden of persuasion that "each element of" the "cause of action" in question has been "proved," such that there is no defense. (*Thompson v. Ioane* (2017) 11 Cal.App.5th 1180, 1195.) If a party meets this initial burden, the burden shifts to the opposing party to provide sufficient evidence to raise a triable issue of fact. (C.C.P. § 437c(p)(1).) An issue of fact exists if "the evidence would allow a reasonable trier of fact to find the underlying fact in favor of the party opposing the motion in accordance with the applicable standard of proof." (*Aguilar v. Atlantic Richfield Co.* (2001) 25 Cal.4th 826, 845.) A moving party does not meet the initial burden if some "reasonable inference" can be drawn from the moving party's own evidence which creates a triable issue of material fact. (*Binder v. Aetna Life Ins. Co.* (1999) 75 Cal.App.4th 832, 840.) If the moving defendant cannot meet the initial burden, the plaintiff has no evidentiary burden. (C.C.P. § 437c(p)(2).)

II. Medical Negligence – Wrongful Death

Professional negligence for a health care provider is defined in C.C.P. section 340.5 as "a negligent act or omission by a health care provider in the rendering of professional services, which act or omission is the proximate cause of a personal injury or wrongful death, provided that such services are within the scope of services for which the provider is licensed, and which are not within any restriction imposed by the licensing agency or licensed hospital." (*Arroyo v. Plosay* (2014) 225 Cal.App.4th 279, 297.)

To claim medical malpractice, a plaintiff must allege the following: (1) a duty to use such skill, prudence, and diligence as other members of the profession commonly possess and exercise; (2) a breach of the duty; (3) a proximate causal connection between the negligent conduct and the injury; and (4) resulting loss or damage." (*Lattimore v. Dickey* (2015) 239 Cal.App.4th 959, 968.) A cause of action for wrongful death is purely statutory and requires a tortious act to be alleged that caused the resulting death and damages, which includes pecuniary loss suffered by a decedent's heirs. (*Ibid*.) If a wrongful death

claim is based on the tort of negligence, then the plaintiff must allege all the elements of a negligence claim in the complaint. (*Novak v. Continental Tire North America* (2018) 22 Cal.App.5th 189, 195.)

III. Survivor Damages

In a survival action by the deceased plaintiff's estate, the damages recoverable expressly exclude "damages for pain, suffering, or disfigurement," but they do include "loss or damage that the decedent sustained or incurred before death, including any penalties or punitive or exemplary damages." (*County of Los Angeles v. Superior Court* (1999) 21 Cal.4th 292, 303–304.) Under California's survival law, an estate can recover the deceased plaintiff's lost wages, medical expenses, any other pecuniary losses incurred before death, and also punitive or exemplary damages. (*Ibid*.)

PRMH's Motion for Summary Judgment

PRMH argues that Plaintiffs' First Cause of Action for medical negligence/wrongful death is barred because PRHM's nurses met the applicable standard of care and because there is no admissible evidence that can establish causation. (Notice of Motion, 2:8-11.) Furthermore, PRMH argues that there is no triable issue of fact remaining as to the duty element required to establish any claim against PRMH based on a theory of ostensible agency because it is undisputed that the physicians who treated Decedent during the relevant period were independent contractors and neither employees nor agents of PRMH. (*Id*. at 2:12-15.) Plaintiffs did not oppose the motion.

No Breach of Standard of Care

PRMH's medical expert reviewed Decedent's medical records from his visits and admission to PRMH on April 28, 2022, and May 5, 2022, and determined that the nursing care provided to Decedent met the applicable standard of care. (MSJ, pp. 10-12.) The nursing staff properly recognized and addressed Decedent's worsening condition and they were not responsible for prescribing medications, placing orders, diagnosing Decedent, or discharging him, but are only expected to triage patients, document their findings in the patient's medical record, and follow the treating physician's orders. (*Ibid*.) Here, PRMH argues their nursing staff abided by this standard of care. As mentioned, Plaintiffs did not oppose the motion to argue there is any triable issue of fact remaining as to the issue of standard of care.

I. No Causation

PRMH argues that PRMH's nurses, employees, agents, or others did not cause or contribute to Decedent's injuries or death, so Plaintiffs cannot prove the necessary element of causation to establish their First Cause of Action for medical malpractice and wrongful death. (MSJ, pp. 12-13.) While the Complaint vaguely claims that PRMH was "negligent in the diagnosis, monitoring, care and treatment of bleomycin-induced lung toxicity," PRMH argues that its nursing staff was not responsible for doing these things, but were only required to triage, document findings in medical history, and follow the treating physician's orders, which they did. (*Ibid*.) As stated above, Plaintiffs did not oppose the motion to argue there is any triable issue of fact remaining as to the issue of causation.

II. Duty Element Based on Ostensible Agency

Plaintiffs' Complaint contains generic allegations regarding agency claiming PRMH is liable for alleged acts of physicians, agents, or employees working for PRMH who treated Decedent. (Complaint, ¶ 4.) PRMH argues that PRMH cannot be held vicariously liable for the alleged negligence of physicians who treated Decedent while Decedent was admitted to PRMH because those physicians were not employed by PRMH and were disclosed to be independent contractors. (MSJ, pp. 13-18.) Plaintiffs did not oppose to argue there is any triable issue of fact remaining as to ostensible agency or vicarious liability.

Application

PRMH presented sufficient information in the motion to argue that because PRMH's nursing staff met the applicable standard of care in treating Decedent, Plaintiffs cannot establish the required elements of causation against PRMH for a claim of medical negligence as a matter of law. Further, Plaintiffs cannot establish agency between PRMH and the physicians who treated Decedent because they are disclosed as independent contractors who were not employed with PRMH. The burden has shifted to Plaintiffs to present argument that there remains a triable issue of fact on any of these issues presented as undisputed in the MSJ. Plaintiffs however failed to oppose the motion to argue that there remain any triable issues of fact as to PRMH's treatment of Decedent. As a result, as to only PRMH the Court will grant the unopposed motion for summary judgment against the entire Complaint.

III. CONCLUSION

Based on the foregoing, PRMH's unopposed motion for summary judgment is **GRANTED** in its entirety. PRMH shall submit a written order on the motion to the Court consistent with this tentative ruling and in compliance with California Rules of Court, Rules 3.1312(a) and (b).