TENTATIVE RULINGS
LAW & MOTION CALENDAR
Friday, May 1, 2026 3:00 pm
Courtroom 19 –Hon. Oscar A. Pardo
3055 Cleveland Avenue, Santa Rosa

The 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, **YOU MUST NOTIFY** the Judge's Judicial Assistant by telephone at **(707) 521-6602**, and all other opposing parties of your intent to appear, **and whether that appearance is in person or via** Zoom, no later 4:00 p.m. the court day immediately preceding the day of the hearing.

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

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1. 24CV04698, Williams v. Pacific Bell Telephone Company

Defendant Pacific Bell Telephone Company (doing business as AT&T Services, Inc.) ("Defendant") moves for summary judgment, or summary adjudication in the alternative, to Plaintiff David Williams' ("Plaintiff") Complaint pursuant to C.C.P. section 437c. Summary adjudication is **DENIED**.

Pursuant to C.C.P. section 437c(f), summary adjudication is **DENIED** as to the First and Second Causes of Action and Plaintiff's prayer for punitive damages. Adjudication of the Third Cause of Action is **DENIED as MOOT**. Defendant's objections to Strickland's Declaration are **OVERRULED**.

I. Material Facts

Plaintiff filed his Complaint alleging retaliation in violation of sections 1102.5 and 6310 of the California Labor Code and wrongful discharge in violation of public policy. (See Complaint, filed on August 12, 2024.) Plaintiff was first hired by Defendant on October 12, 1998, and worked for Defendant at the Santa Rosa Field Operating Center ("FOC") until he was terminated

on October 13, 2021. (Undisputed Material Fact [“UMF”] and Response, Nos. 2–3; Williams Deposition 21:18–19, 25:2–5.) Plaintiff started as a Service Technician, worked as a trainer for about one year during this position, and last worked as a Splicing Technician from about July 2011 until his termination in October 2021. (UMF and Response, No. 1; Williams Deposition 21:20–24:21.) At the time of his termination, Shawn Skeesick (“Skeesick”) was his direct supervisor, Manager Network Services, but was gone for two months in 2021 and Shelly Werth (“Werth”) was the acting manager during that time and other times when Skeesick was gone. (UMF and Response, Nos. 2–3; Williams Deposition, 27:14–25.) Shawn Skeesick reported to Mike Sulme, Area Manager Network Services, who reported to Scott Thomas, Director of Network Services. (UMF and Response, No. 2; Williams Deposition, 27:14–25.)

In January 2016, Plaintiff was suspended for 12 days without pay after a coworker left a pedestal terminal open (a wire on the ground with live voltage) and Plaintiff confronted this coworker by stating that nearby children could have been injured if they touched such wires, along with other comments in the conversation that are disputed. (UMF and Response, No. 4; Williams Deposition, 173:21–176:12.) In July of 2021, Skeesick documented a conversation with Plaintiff where he stated that Werth did not belong with the company and that her “F**ing a direct report is unacceptable and disgusting” which Plaintiff disputes but argues he believe that it was a Code of Business Conduct (“COBC”) violation that should be reported. (UMF and Response, No. 5; Williams Deposition 178:4–179:10; Exhibit 7 in Support of Defendant’s MSJ.) Skeesick’s documentation was in the form of a “Coaching Discussion” dated July 9, 2021, where Skeesick documented Plaintiff’s conduct and comments in this discussion (including that he refused to have any communication from Werth), finding that his actions are a “COBC and insubordination”. (UMF, No. 6; Exhibit 7 in Support of Defendant’s MSJ.)

On September 10, 2021, a Splicing Technician was severely injured on the job from a welding failure on the work vehicle. (Williams Deposition, 53:4–23.) On the morning of September 13, 2021, Sulme held a team safety meeting at the Santa Rosa FOC with Werth, Rich Simmons (mechanic), and Shawn Heape (union representative) in response to the recent injury, asking the Splicing Technicians to perform visual inspections of their work vehicles, including the boom welds on their trucks, which was contained in a checklist that was handed out to the team. (UMF and Response, No. 7; Williams Deposition, 58:11–19; Sulme Decl., ¶¶ 6–7, 9.) During this meeting, Plaintiff told Sulme that he did not want to perform these inspections because this fell outside the scope of work for Splicing Technicians and that Splicing Technicians are not mechanics who should be performing such inspections. (UMF and Response, Nos. 8–9; Williams Deposition, 58:20–63:18, 65:8–66:11.) Plaintiff contends that Sulme was frustrated with Plaintiff’s refusal to do the vehicle inspection so he “made a beeline right towards [Plaintiff] and grabbed [him].” (Williams Deposition, 66:1–22.) Defendant asserts that Splicing Technicians are required to conduct pre-driving visual inspections of their vehicles and that no one at the meeting represented that certified mechanics would no longer complete their required inspections of the Splicing Technicians’ work vehicles. (UMF and Response, Nos. 10–11; Sulme Decl., ¶¶ 6, 10; Werth Decl., ¶ 5; Exhibit 9, page 9 in Support of Defendant’s MSJ.) Later that same day on September 13, 2021, Splicing Technician Dan Kabage (“Kabage”) reported to Werth via telephone that after work on September 13, 2021, Plaintiff approached Kabage and two other Splicing Technicians (Sage Sokol-Lanting [“Sokol-Lanting”] and Steve Broderick [“Broderick”]) and made verbally abusive and threatening statements. (UMF and Response, No.

14; Williams' Deposition, 101:2–109:9; Werth Decl. ¶ 7.) Werth also spoke to Broderick on September 14, 2021, about the incident where Broderick described Plaintiff's behavior as volatile and asked Werth to escalate his complaint about Plaintiff since Plaintiff continued to act with increasing anger and aggression in the workplace over the past year. (UMF and Response, No. 15; Williams' Deposition, 101:2–109:9; Werth Decl. ¶ 7.) On September 15, 2021, Werth escalated the incident to Human Resources and Asset Protection and Asset Protection Senior Investigator Alfredo Nodal ("Nodal") conducted an investigation, which included interviewing the parties involved: Plaintiff, Kabage, Sokol-Lanting, and Broderick. (UMF and Response, No. 16–17; Nodal Decl. ¶5.) On September 27, 2021, Nodal completed an Investigation Report, where Kabage, Sokol-Lanting, and Broderick had a corroborated view of the incident where Plaintiff acted aggressively toward the group, verbally and physically, and told Sokol-Lanting that he "better watch who [he's] rolling with" twice and to stay away from Plaintiff's truck because Sokol-Lanting was allegedly signing off the inspection sheets from the morning meeting and Plaintiff challenged whether Sokol-Lanting was qualified to do so. (UMF and Response, Nos. 18–21; Nodal Decl., ¶¶ 6–8; Exhibit 8 in Support of Defendant's MSJ.) In his interview with Nodal, Plaintiff denied acting aggressively, getting out of his vehicle, using profanity during this incident but states that he was acting passionately which was being misconstrued as aggression. (Nodal Decl., ¶ 9; Exhibit E of Exhibit 8 in Support of Defendant's MSJ.)

Specifically, Plaintiff stated that he reported his work safety concerns to Sulme and Werth and that "[He has] also reported the safety issues to Cal-OSHA [California Occupational Safety and Health Administration] who will be at the yard tomorrow. [He] believe[s] [he is] being retaliated by [his] management." (Nodal Decl., ¶ 9; Exhibit E of Exhibit 8 in Support of Defendant's MSJ.) Plaintiff made this statement to Nodal but did not provide Nodal with a copy of the Cal-OSHA complaint. (UMF No. 22; Nodal Decl., ¶ 9; Exhibit E of Exhibit 8 in Support of Defendant's MSJ; Williams Deposition 131:5–7.) Plaintiff did not announce that he was going to contact Cal-OSHA to the participants at the September 13th morning meeting, including Werth and Sulme, but filed two complaints with Cal-OSHA on September 14, 2021. (UMF and Response, Nos. 12–13; Williams Deposition, 99:6–100:15; Werth Decl., ¶ 6; Sulme Decl., ¶ 12.) On September 27, 2021, Nodal sent his Investigation Report to Sulme, Thomas, and Karen Zengel (previous Human Resources Employee Relations Manager). (UMF, No. 23.) Based on the Investigation Report, Sulme and Thomas terminated Plaintiff on October 13, 2021, for his willful disregard of Defendant's policies and violations of the COBC, namely Violence in the Workplace. (UMF and Response, Nos. 27, 30.) At the time of Plaintiff's termination, neither Sulme nor Thomas had actual knowledge of Plaintiff's Cal-OSHA complaints, including whether he filed such complaints, only that Plaintiff claimed to have filed a Cal-OSHA complaint to Nodal in his interview for the Investigation Report. (UMF and Response, No. 33.)

The parties dispute as to whether Plaintiff's behavior, including the September 13th incident, was a violation of the COBC's, and therefore justified Plaintiff's termination or whether Plaintiff's Cal-OSHA complaint and safety concerns with the vehicle inspections were the basis of his termination, i.e., retaliation. (UMF and Response, Nos. 24–35.) Plaintiff filed the instant Complaint on August 22, 2024. (UMF, No. 36.)

II. Governing Law

A. Standard at Summary Judgment/Adjudication Generally

A party moving for summary judgment must show that there is no triable issue as to any material fact and the moving party is entitled to a judgment as a matter of law. (CCP § 437c(c).) A party moving for summary adjudication of a cause of action must prove that the cause of action has no merit and summary adjudication may only be granted if it completely disposes of the cause of action. (C.C.P. § 437c(f)(1).) "A defendant or cross-defendant has met his or her burden of showing that a cause of action has no merit if the party has shown that one or more elements of the cause of action, even if not separately pleaded, cannot be established, or that there is a complete defense to the cause of action." (C.C.P. § 437c(p)(2).) "Once the defendant or cross-defendant has met that burden, the burden shifts to the plaintiff or cross-complainant to show that a triable issue of one or more material facts exists as to the cause of action or a defense thereto." (*Ibid*.)

"From commencement to conclusion," the moving party bears the burden of persuasion and production to make a prima facie showing that there are no triable issues of material fact. (*Aguilar v. Atlantic Richfield Co*. (2001) 25 Cal.4th 826, 850.) "There is no obligation on the opposing party…to establish anything by affidavit unless and until the moving party has by affidavit stated facts establishing every element…necessary to sustain a judgment in his favor." (*Consumer Cause, Inc. v. SmileCare* (2001) 91 Cal.App.4th 454, 468.) Defendants can meet their burden by showing a cause of action has no merit by showing that one or more elements of the cause of action "cannot be established." (See C.C.P. § 437c(p)(2).) Once the defendant has met that burden, the burden shifts to the plaintiff to show that a triable issue of one or more material facts exists as to that cause of action or defense. (*Aguilar, supra*, 25 Cal.4th at p. 849.)

B. Retaliation

Section 1102.5 of the California Labor Code provides whistleblower protections to employees who disclose wrongdoing to authorities by prohibiting an employer from retaliating against an employee for sharing information the employee " 'has reasonable cause to believe ... discloses a violation of state or federal statute' or of 'a local, state, or federal rule or regulation' with a government agency, with a person with authority over the employee, or with another employee who has authority to investigate or correct the violation." (*Lawson v. PPG Architectural Finishes, Inc.* (2022) 12 Cal.5th 703, 709, citing Lab. Code § 1102.5(b).) The California Supreme Court in *Lawson* defined the standard for claims brought under Section 1102.5, which is applicable at summary judgment:

> Section 1102.6 provides the governing framework for the presentation and evaluation of whistleblower retaliation claims brought under section 1102.5. First, it places the burden on the plaintiff to establish, by a preponderance of the evidence, that retaliation for an employee's protected activities was a contributing factor in a contested employment action. The plaintiff need not satisfy *McDonnell Douglas* in order to discharge this burden. Once the plaintiff has made the required showing, the burden shifts to the employer to demonstrate, by clear and convincing evidence, that it would have taken the

> action in question for legitimate, independent reasons even had the plaintiff not engaged in protected activity.

(*Lawson, supra,* 12 Cal.5th at 717–718.)

Similarly, Section 6310 of the California Labor Code provides protections for employees by prohibiting an employer from terminating or discriminating against an employee for making a complaint to a governmental agency "having statutory responsibility for or assisting the division with reference to employee safety or health, their employer, or their representative" and requires that any employee terminated for making such a complaint be reinstated or reimbursed for lost wages. (Lab. Code §§ 6310(a)–(b).) However, Section 6310 is governed by the burden-shifting framework in *McDonnell Douglas Corp. v. Green* (1973) 411 U.S. 792. A plaintiff must establish a prima facie case of retaliation, by demonstrating "(1) he or she engaged in a 'protected activity,' (2) the employer subjected the employee to an adverse employment action, and (3) a causal link existed between the protected activity and the employer's action." (*Yanowitz v. L'Oreal USA, Inc.* (2005) 36 Cal.4th 1028, 1042.) At summary judgment, the defendant has the burden of demonstrating that plaintiff cannot establish one or more elements of a prima facie case of retaliation and the burden then shifts to plaintiff to identify a triable issue of fact on the challenged elements. (*Serri v. Santa Clara University* (2014) 226 Cal.App.4th 830, 861.)

C. Punitive Damages

Recovery of punitive damages requires a plaintiff to show that the defendant is guilty of "oppression, fraud, or malice" by clear and convincing evidence. (*Aquino v. Superior Court* (1993) 21 Cal.App.4th 847, 856–857 citing Civil Code § 3294(a).) "An act of oppression, fraud or malice, by an officer, director or managing agent, is sufficient to impose liability on a corporate employer for punitive damages, without any additional showing of ratification by the employer." (*Kelly-Zurian v. Wohl Shoe Co.* (1994) 22 Cal.App.4th 397, 420.) "To demonstrate that an employee is a true managing agent under [Civil Code] section 3294, subdivision (b), a plaintiff seeking punitive damages would have to show that the employee exercised substantial discretionary authority over significant aspects of a corporation's business." (*Davis v. Kiewit Pacific Co.* (2013) 220 Cal.App.4th 358, 366 quoting *White v. Ultramar, Inc.* (1999) 21 Cal.4th 563, 573.) "If there exists a triable issue of fact regarding whether a corporate employee is a managing agent under the *White* test, that factual question must be determined by the trier of fact and not the court on a motion for summary adjudication." (*Ibid.*)

III. Discussion

A. Defendant's Evidentiary Objections to Strickland's Declaration

In support of its Reply, Defendant asserts eight objections to Strickland's Declaration in Support of Plaintiff's Opposition to the Motion, one to every Exhibit attached to the Declaration (Exhibits A–H) for the rule of completeness, lack of foundation, lack of authentication, and/or irrelevance. The objections are **OVERRULED**.

B. Defendant's Lodging of Evidence

Defendant's counsel *lodged* all exhibits in support of its motion instead of filing the exhibits, in violation of California Rules of Court, Rule 3.1302(a), which requires all papers relating to law and motion proceedings to be filed in the clerk's office, unless otherwise provided by local rule or by the Court's protocol for electronic filing. Defendant does not provide any reasoning as to why it lodged the exhibits instead of filing them and does not make any argument that the exhibits contain confidential information, which would trigger another set of requirements under Rule 2.551 of the California Rules of Court to file records under seal. Principally, lodging documents fails to create a complete record for any potential appeal. While this procedural defect would be enough to deny the motion in its entirety, in the interests of justice and deciding cases on their merits, the Court allowed Defendant's counsel to file the exhibits in support of its motion before the hearing date, which they did. The Court now considers Defendant's motion for summary judgment/adjudication.

C. The Timeliness of Plaintiff's Opposition

In Reply, Defendants states that Plaintiff's Opposition was four days late and the Court should exercise its discretion to not consider the Opposition. While Plaintiff filed his Opposition four days late on January 20, 2026 (calculated from the original February 6, 2026, hearing date), the Court shall consider the untimely Opposition in the interests of disposing of cases on their merits.

D. Defendant's Motion to Summary Judgment/Adjudication

Defendant seeks adjudication of all three causes of action in the Complaint in addition to Plaintiff's prayer for punitive damages.

1. First Cause of Action – Violation of Labor Code Section 1102.5 (Retaliation)

Defendant argues that Plaintiff cannot establish a prima facie case for retaliation because he did not engage in protected activity during the September 13th safety meeting and cannot establish that Sulme and Thomas had knowledge of his Cal-OSHA complaints. As described in *Lawson*, Plaintiff must establish by a preponderance of the evidence that the retaliation for his protected activities was a contributing factor in his termination and then the burden shifts to Defendant to demonstrate by clear and convincing evidence, that it would have terminated Plaintiff for legitimate, independent reasons even if Plaintiff had not engaged in protected activity. (*Lawson, supra,* 12 Cal.5th at 718.)

Plaintiff has met his burden showing evidence that he engaged in a protected activity by reporting Defendant to Cal-OSHA on September 14, 2021, after the September 13, 2021, safety meeting. (Strickler Decl., Exhibit E.) Defendant focuses on Plaintiff's conduct at the September 13th safety meeting and how speaking out at this meeting was not a protected activity based on the allegations in the Complaint. However, Defendant does not include an UMF in their Separate Statement about protected activity or define what actions by Plaintiff may or may not constitute protected activity. (C.C.P. § 437c(b)(1) [moving party's separate statement must "set[ ] forth plainly and concisely all material facts that the moving party contends are undisputed"].)

Furthermore, Plaintiff presents evidence that Defendant had notice of his Cal-OSHA complaint as Cal-OSHA sent Plaintiff a copy of the letter it sent to Defendant in response to Plaintiff's complaint. (Strickler Decl., Exhibits E–F.) The letters from Cal-OSHA are dated September 23, 2021, but it is unclear as to whether Sulme and Thomas knew of these letters sent to AT&T when they decided to terminate Plaintiff. At the very least, Sulme and Thomas had notice of potential Cal-OSHA complaints made by Plaintiff on September 27, 2021 (when Nordal sent his Investigation Report containing such information), which was about 15 days before Plaintiff was terminated on October 13, 2021. Furthermore, Plaintiff was suspended on September 20, 2021, until September 21, 2021, at 1:00 p.m. pending investigation for possible violations of the COBC. (Strickler Decl., Exhibit G.) Therefore, Plaintiff has established by a preponderance of the evidence that retaliation for reporting Defendant to Cal-OSHA was a contributing factor in his termination. Defendant cannot demonstrate by clear and convincing evidence, that it would have terminated Plaintiff for legitimate, independent reasons even if Plaintiff had not reported Defendant to Cal-OSHA. While there is evidence of legitimate reasons supporting Plaintiff's termination, this evidence is disputed by Plaintiff and Defendant cannot show that by clear and convincing evidence that the Cal-OSHA complaint or even the possibility of Plaintiff making such a complaint did not factor into Plaintiff's termination shortly thereafter. Based on this timing, there are triable issues of material fact as to the timing of Plaintiff's Cal-OSHA complaint about Defendant in relation to his temporary suspension and date of termination, whether making the complaint to Cal-OSHA factored into Plaintiff's termination, and whether Sulme and Thomas had actual notice of the Cal-OSHA letter to AT&T dated September 23, 2021 and AT&T's response to the claim, which is not in the evidence presented to the Court. Therefore, summary adjudication is **DENIED** as to the First Cause of Action.

2. Second Cause of Action – Violation of Labor Code Section 6310 (Retaliation)

Defendant argues that Plaintiff cannot make a prima facie showing of retaliation because he cannot show a causal link between the termination of his employment and Cal-OSHA complaints because there is no evidence that Sulme and Thomas had any awareness of the complaints when they terminated Plaintiff. Defendant further argues that Plaintiff cannot show that Defendant's legitimate termination reason was pretextual or based on retaliatory animus. A prima facie showing under *McDonnell Douglas* requires Plaintiff to show that "(1) he or she engaged in a 'protected activity,' (2) the employer subjected the employee to an adverse employment action, and (3) a causal link existed between the protected activity and the employer's action." (*Yanowitz v. L'Oreal USA, Inc.* (2005) 36 Cal.4th 1028, 1042.)

The Court has already determined above that Plaintiff has shown that he engaged in a protected activity and that Defendant had legitimate reasons to terminate Plaintiff based on violations of the COBC. It is also not disputed that Plaintiff suffered an adverse employment action by being terminated by Defendant. Regarding the causal link, disbelief of the employer's stated reason for termination or temporal proximity, alone, do not give rise to an inference that the motivation for termination was a prohibited one. (*Serri, supra,* 226 Cal.App.4th at 863). However, here, there are issues of temporal proximity and Plaintiff's disbelief that his termination was not related to his Cal-OSHA complaint. While Plaintiff may not *know* that his termination was related to his Cal-OSHA complaint, he does not need to know that his termination was related to his complaint but must "demonstrate such weaknesses, implausibilities, inconsistencies, incoherencies, or

contradictions in the employer's proffered legitimate reasons for its action that a reasonable factfinder could rationally find them 'unworthy of credence,' [citation], and hence infer 'that the employer did not act for the [the asserted] non-discriminatory reasons.'" (*Serri, supra,* 226 Cal.App.4th at 863.) As determined above, Plaintiff demonstrated weaknesses in Defendant's reasons for terminating him based on the timing of the complaint and the safety concerns he raised that would allow a reasonable factfinder to find Defendant's legitimate reasons unworthy of credence. Thus, Plaintiff has identified triable issues of fact on the causal link between Plaintiff's Cal-OSHA complaint and his termination and whether Plaintiff's behavior alone justified his termination or whether his termination was in retaliation for making the Cal-OSHA complaint, precluding summary adjudication. Summary adjudication is **DENIED** as to the Second Cause of Action.

3. Third Cause of Action – Wrongful Discharge in Violation of Public Policy

In his Opposition, Plaintiff withdrew the Third Cause of Action. Thus, Defendant's motion is **DENIED as MOOT** as to the Third Cause of Action for wrongful discharge in violation of public policy.

4. Punitive Damages

Defendant argues that Sulme and Thomas are not corporate employees or managing agents whose actions give rise to punitive damages or that their conduct was so vile to justify an award of punitive damages.

Here, Plaintiff has presented triable issues of fact regarding Defendant's motive for terminating Plaintiff as discussed above. It is undisputed that Sulme was the Area Manager Network Services and Thomas was the Director of Network Services, and they had the authority to decide, and did decide, to terminate Plaintiff. While an Area Manager and a Director may exercise substantial discretionary authority over significant aspects of a corporation's business, the determination of whether Sulme and Thomas are managing agents of AT&T is properly made by the trier of fact and not the Court at this stage. Summary adjudication is **DENIED** as to Plaintiff's prayer for punitive damages.

IV. Conclusion

Defendant's motion for summary judgment, or summary adjudication in the alternative, is **DENIED** in its entirety.

Plaintiff's counsel shall submit a written order on its motion to the Court consistent with this tentative ruling and in compliance with Rule of Court 3.1312(a) and (b).

****This is the end of the Tentative Rulings.*****