

**TENTATIVE RULINGS
LAW & MOTION CALENDAR
Wednesday, June 3, 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.

TO JOIN ZOOM ONLINE:

Department 19 Hearings

MeetingID: 160-421-7577

Password: 410765

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PLEASE NOTE: The Court’s Official Court Reporters are “not available” within the meaning of California Rules of Court, Rule 2.956, for court reporting of civil cases.

1. 24CV02599, Gaspar v. Gonzalez Vineyard Management, LLC

Plaintiff has filed a notice of settlement requesting that all hearings be dropped from calendar. From this, the Court infers that the motion to be relieved as counsel is withdrawn. The matter is dropped from calendar.

2. 24CV05535, Reed v. Becoming Independent

THE PARTIES ARE REQUIRED TO APPEAR IN THE EVENT THAT THERE IS AN IN PERSON OBJECTOR TO THE SETTLEMENT. THE COURT’S TENTATIVE RULING IS BELOW.

Plaintiff Shantell Reed and Chad Schisler (“Plaintiff”), individually and on behalf of other all other similarly situated, including employees pursuant to the California Private Attorney General Act, filed the currently operative first amended complaint against defendant Becoming Independent (“Defendant”), and Does 1-50 for causes of action arising out of Defendant’s alleged Labor Code violations, and civil penalties thereon (the “FAC”). This matter is on calendar for Plaintiff’s unopposed motion for final approval of the class action settlement (the

“Motion”). The Motion is **GRANTED**. The matter is also on for approval of attorney’s fees and class representative enhancement. That motion is **GRANTED**.

I. Procedural and Evidentiary Issues

Plaintiff’s request for judicial notice is DENIED as irrelevant. The case presented is factually unrelated to the instant matter. It is improper authority. See Rule of Court, Rule 8.1115. Since judicial notice is a substitute for proof, it “is always confined to those matters which are relevant to the issue at hand.” *Gbur v. Cohen* (1979) 93 Cal.App.3d 296, 301.

II. The Complaint

The presently operative First Amended Complaint (“Complaint”) alleges that Defendants failed to comply with California Labor Code (“LC”) provisions during the course of Plaintiff’s employment with Defendants, and alleges on information and belief that these policies were also enforced on other employees.

The Complaint contains causes of action for: (1) Failure to Provide Meal Periods; (2) Failure to Authorize and Permit Rest Breaks; (3) Failure to Pay All Wages Due Upon Separation; (4) Failure to Provide Accurate Wage Statements; (5) Unfair Business Practices, in Violation of Business and Professions Code Sections 17200, et seq.; and (6) Penalties Pursuant to Labor Code §2699, et seq., for PAGA civil penalties on a representative basis for themselves and other employees.

III. The Settlement

According to the Preliminary Approval Motion, Plaintiffs asserted multiple causes of action for various Labor Code and Business and Professions Code violations centered around Labor Code violations. Defendant contends that Plaintiffs are unlikely to obtain class certification and the claims presented were based on individualized damages not easily proven in representative claims. *See generally* Velez Decl. for Preliminary Approval ¶¶ 9-28.

The Velez Declaration establishes that Plaintiffs’ counsel engaged in exchange of information and investigation. Velez Decl. ¶¶ 9-12. On June 18, 2025, the parties mediated the matter before the Honorable Patrick Walsh, a retired magistrate judge and mediator with extensive wage and hour class action experience. Velez Decl. ¶ 9, 13. Prior to the mediation, Defendant had provided over half a million lines of timecard and wage data, and over a thousand pages of documents. Velez Decl. ¶¶ 9-12. The class is defined in the Settlement Agreement and Release of Class Action [attached to Velez Decl., Exhibit 1, hereinafter “Settlement Agreement”] as all persons who were employed by Defendants in California as a non-exempt employee during the Class Period from September 20, 2020 through June 18, 2025. Settlement Agreement §§ 1.5, 1.12. Aggrieved Employees under PAGA are defined as all persons who were employed by Defendants in California as a non-exempt employee between September 20, 2023 through June 18, 2025. Settlement Agreement §§ 1.4 and 1.31.

Plaintiffs' counsel undertook an analysis of the data provided by Defendants. Velez Decl. ¶ 20. Based on that data, Plaintiffs' counsel was able to undertake a thorough assessment of potential damages for the claims alleged in the FAC, including the number of instances and the corresponding monetary claim for each late or missed meal break, each missed rest break, and each resulting wage statement violation. Plaintiffs' counsel was able to then extrapolate that information to the entire class. The data provided for a class of 405 members who had worked 30,116 workweeks. Plaintiff estimates that the maximum amount of potential damages across the class for the alleged underlying violations equals \$7,030,346.00 (\$3,011,600.00 in missed meal period premium wages, \$3,011,600.00 in missed rest break premium wages, \$557,146.00 for wage statement penalties, and \$450,000.00 for waiting time penalties) with an additional \$628,100.00 for civil penalties under PAGA. Velez Decl. ¶¶ 20-24, 27. The estimated maximum damage per class member for the core class claims is therefore \$17,358.88 per class member (\$7,030,346.00 / 405 class members). Maximum recovery of PAGA penalties are \$643.54 per aggrieved employee ($[\$157,025/244] \times .25$), with the other \$471,075 going to the LWDA. Counsel also calculated the probable recovery resulting from continued litigation, estimating a 60% chance of prevailing at certification and a further 60% likelihood of prevailing on the merits, and came to a calculated realistic recovery of \$2,530,924.56. Velez Decl. ¶ 24. This in turn results in a realistic payment per class member of \$6,249.20. At the mediation, the parties came to an agreement based on the assistance of the mediator. Velez Decl. ¶ 13. Plaintiffs provided a copy of the settlement agreement to the LWDA on August 13, 2025. Velez Declaration, ¶ 44.

Pursuant to the Settlement Agreement, Defendants will pay \$790,000 as the Gross Settlement Fund. Settlement Agreement § 1.22. From that amount, the following will be deducted: 1) attorneys' fees of \$263,307.00 (which is approximately 1/3 of the Gross Settlement Fund) and up to \$13,250.92 of costs and expenses; 2) an incentive award to the Plaintiffs of \$20,000 (two payments of \$10,000); 3) settlement administration costs, not to exceed \$9,490; and 4) \$40,000 in penalties under PAGA, 75% of which is paid to the California Labor and Workforce Development Agency (\$10,000 of which is payable to the Aggrieved Employees). See Settlement Agreement §§ 3.2, *et seq.* If these sums are all approved by the Court, this results in a Net Settlement Fund of \$443,952.08 to be distributed to the members of the class. The Net Settlement Fund will be distributed pro rata to the members of the class who do not opt out, based on the number of workweeks worked by such individual as compared to the total number of aggregate number of workweeks by all such individuals during the Class Period. Settlement Agreement § 3.2.4. This results in an average Class settlement payment of approximately \$1,096.18 ($\$443,952.08 / 405$). This also leaves a PAGA settlement for distribution to 244 aggrieved employees of \$10,000. Defendant will pay its share of payroll taxes for settlement funds classified as wages separate from the Gross Settlement Fund. Settlement Agreement §§ 3.2.4.1, 4.3. The settlement is non-reversionary. Settlement Agreement § 3.1. For tax purposes, 20% is allocated to unpaid wages, and 80% is allocated to interest and penalties classified as miscellaneous income. Settlement Agreement § 3.2.4.1. Net settlement payments will be automatically sent to members of the class unless they opt out. See generally, Settlement Agreement §§ 4.4.1, 7.5.3.

The Settlement Agreement and proposed notice to the Class (the "Proposed Notice") (Settlement Agreement, Ex. A) also set forth the procedure and timeline for providing notice to the class

members (which will be sent by the administrator via first class mail), which includes a detailed explanation of the claims and defenses, terms of the settlement, opt out and objection procedures, an estimate of the individual class member's settlement payment and a description of how it was calculated, and that all participating members of the class will be paid without the need to submit a claim.

The Class Members who do not opt-out of the settlement releases Defendant from (i) all claims that were alleged, or reasonably could have been alleged, based on the Class Period facts stated in the Operative Complaint (as well as Class Period facts ascertained in the course of the Action) including, but not limited to, any and all claims involving any (a) failure to pay minimum wages; (b) failure to pay overtime wages; (c) failure to pay reporting time pay; (d) failure to pay vacation wages; (e) failure to provide meal periods or timely meal periods; (f) failure to provide rest periods or timely rest periods; (g) failure to provide accurate itemized wage statements; (h) failure to timely pay wages including wages due upon termination; (i) failure to maintain accurate records; (j) failure to pay reimbursable expenses; (k) violation of Business & Professions Code § 17200, *et. seq.*; and (l) violation of Labor Code § 2698, *et. seq.* Except as set forth in Section 5.3 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period." Settlement Agreement § 5.2.

Additionally, Plaintiff agrees to release "all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint, and the PAGA Notice and ascertained in the course of the Action including, but not limited to any and all claims involved any (a) failure to pay minimum wages; (b) failure to pay overtime wages; (c) failure to pay reporting time pay; (d) failure to pay vacation wages; (e) failure to provide meal periods or timely meal periods; (f) failure to provide rest periods or timely rest periods; (g) failure to provide accurate itemized wage statements; (h) failure to timely pay wages including wages due upon termination; (i) failure to maintain accurate records; (j) failure to pay reimbursable expenses; (k) violation of Business & Professions Code § 17200, *et. seq.*; and (l) violation of Labor Code § 2698, *et. seq.*" Settlement Agreement § 5.3.

IV. Preliminary Approval and Class Notices

At preliminary approval, the Court gave preliminary approval. The maximum possible claims at settlement reflected 405 Class Members might recover as much as \$7,658,446 (with only 244 of those being PAGA aggrieved employees). Probable recovery was far lower, estimated at \$2,530,924.56. The estimated recovery of \$443,952.08 after attorneys' fees and costs was within the realm of reasonableness.

Additional data was received and notice was sent to 408 class members and 244 Aggrieved Employees. Notices were sent by the class administrator. After distribution of the class notices and re-mailing, 5 of the notices were undeliverable. Shim Declaration ("Administrator Declaration"), ¶ 8-9. One class member opted out of the settlement. Administrator Declaration, ¶ 11. No objections were received by the class administrator.

V. Final Approval

After preliminary approval, the Court determines whether a class action settlement is fair, adequate and reasonable in a final hearing, often referred to as a “fairness hearing.” Cal. R. Ct. 3.769(g); *see also Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801. The purpose of this requirement is “the protection of those class members, including the named plaintiffs, whose rights may not have been given due regard by the negotiating parties” and to “prevent fraud, collusion or unfairness to the class...” *Dunk*, 48 Cal.App.4th at 1800-01, citing *Malibu Outrigger Bd. of Governors v. Superior Court* (1980) 103 Cal.App.3d 573, 578-79; *see also Marcarelli v. Cabell* (1976) 58 Cal.App.3d 51, 55.

“The trial court has broad discretion to determine whether a class action settlement is fair and reasonable.” *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 52. “Due regard should be given to what is otherwise a private consensual agreement between the parties” and “the court’s inquiry must be limited to the extent necessary to reach a reasoned judgment that the agreement is not the product of fraud or overreaching by, or collusion between, the negotiating parties, and that the settlement, taken as a whole, is fair, reasonable and adequate to all concerned.” *Dunk*, 48 Cal.App.4th at 1801 (internal citations omitted). “When the following facts are established in the record, a class action settlement is presumed to be fair: ‘(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.’” *Chavez*, 162 Cal.App.4th at 52 *quoting Dunk*, 48 Cal.App.4th at 1802.

There are 408 class members, one of which has opted out. See Administrator Declaration, ¶ 10-14. There were 244 Aggrieved Employees. *Id.* at ¶ 17. Workweeks came to a total of 31,376, which was a change insufficient to trigger the escalator clause. *Id.* at ¶ 16; Settlement § 8. Five notices were returned or unserved, no objections were received, and one request for exclusion was received. Administrator Declaration ¶ 8-14.

There are 407 resulting class members. Based on a calculation that assumes that the requested attorneys’ fees, costs, and incentive fee awards are approved (*i.e.* a \$444,952.08 net settlement fund) the highest individual settlement payment to be paid is approximately \$3,516.96 and an average of approximately \$1,093.25. Administrator Declaration, ¶ 16. PAGA payments will average \$40.98 per claimant (\$10,000/244 Aggrieved Employees). Total maximum possible damages is averred to be \$7,030,346. Velez Decl. for Final Approval, ¶ 24. There is no new evidence of probable recovery. The Court also notes that the recovery here is subject to an additional consideration in Defendant’s relative inability to pay a higher amount. Defendant is a local non-profit, and the settlement amount represents a significant portion of their operating capital. All of these factors considered, the settlement amount initially appears fair and reasonable to the class.

There is one adjustment to the initial figures presented in the Preliminary Approval, which appears to increase the amount available for the settlement fund. Settlement administrator expenses did not reach the \$9,490 amount estimated, instead coming to \$8,490, adding \$1,000 to the settlement fund.

In examining the total settlement amount, and whether it is reasonable, the Court notes that there were no objectors and only one request for exclusion, making up a mere quarter of a percent of the class. The settlement appears to be the result of arm's length bargaining. Substantial discovery appears to have occurred, and to the degree that there was any deficit in those disclosures, it appears to have not been of sufficient scale to prejudice the class members. Class counsel is experienced in this type of litigation.

Based on the foregoing, because the factors articulated in *Dunk* are met; because there is no indication of fraud, collusion or unfairness; and because the terms of the settlement appear to be fair and reasonable; and based on the lack of opposition or objection, Plaintiffs' motion for final approval of the terms of the settlement is approved.

VI. Attorney's Fees and Class Representative Incentive

In this case, the underlying Settlement Agreement established a gross settlement fund fixed at \$790,000, without any reversion to Defendants and with all settlement proceeds, net of specified fees and costs and \$40,000 in PAGA penalties, going to pay claims for class members who did not opt out of the settlement. Plaintiffs' counsel requests an award of \$236,307.00 which is around one third (33.33%) of the common fund.

Class Counsel Velez has provided information regarding the time billed in this case his rates of each for the work performed for Plaintiffs. Class Counsel advances that the Court should adopt a percentage fee approach, arguing that there are several public policy reasons why percentage recovery is the modern and appropriate method of calculation here. Percentage recovery focuses on results achieved whereas the lodestar focuses on time spent.

Counsel is correct that the percentage approach offers substantive benefits in encouraging counsel to maximize recovery, rather than wasting time attempting to bill in order to justify lodestar amounts. However, that does not mean that Class Counsel's recovery should remain unfettered by the hours actually expended. This Court maintains the capability to "double check the reasonableness of the percentage fee through a lodestar calculation." *Laffitte v. Robert Half Internat. Inc.* (2016) 1 Cal.5th 480, 504. Moreover, the common fund method is burdened by its own potential infirmities, encouraging counsel to settle otherwise meritorious cases quickly in order to make themselves available for the next case. The incentive to counsel, incongruous with that of their client and the class, is to settle the case for the maximum amount *relative to their time expended*. Accordingly, our high court has stated that California trial courts maintain the discretion to use lodestar amounts to ensure that the percentage figure reached is reasonable. *Laffitte v. Robert Half Internat. Inc.* (2016) 1 Cal.5th 480, 505. This is representative of the Court's obligations to the class as a whole, where the interests of Defendant and Plaintiff are no longer at odds.

Class Counsel asserts that fees of one third of the settlement amount is the appropriate figure. As an initial matter, the Court finds Plaintiff's recovery reasonable but unexceptional based on the total calculable damages. Plaintiff's evidence at preliminary approval indicated that the total probable class damages were \$2,530,924.56. The claims presented in the FAC are generally of the type where Plaintiff would be entitled to recovery of attorney's fees. See, e.g., Labor Code §

2699(k)(1); Labor Code § 218.5; Labor Code § 1194; FAC. Even if the matter were fully litigated, should Plaintiff prevail, the cost of fully litigating the matter would not be borne by Plaintiff or the class. This means that against probable calculable damages as presented at preliminary approval, the distributable settlement amount represents 18%. The Court again notes that the recovery here is subject to an additional consideration in Defendant's relative inability to pay a higher amount. Defendant is a local non-profit, and the settlement amount represents a significant portion of their operating capital. The percentage of recovery being otherwise restricted by this factor, Plaintiffs' outright recovery is not overwhelmingly indicative of the efficacy of counsel. The settlement is sufficiently reflective of the necessary factors that a one-third fee is appropriate.

This further supported when checked against the lodestar analysis provided. The "lodestar" is the number of hours reasonably expended multiplied by the reasonable hourly rate prevailing in the community for similar services by an attorney with similar skill and experience. *See, e.g. PLCM Group, Inc. v. Drexler* (2000) 22 Cal.4th 1084, 1095; *Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1132. The trial court may adjust the lodestar amount based on various factors specific to the case to fix the attorney fees at fair market value for the services provided, including: "(1) the novelty and difficulty of the questions involved, (2) the skill displayed in presenting them, (3) the extent to which the nature of the litigation precluded other employment by the attorneys, [and] (4) the contingent nature of the fee award." *Ketchum*, 24 Cal.4th at 1132. *See also Gorman v. Tassajara Dev. Corp.* (2009) 178 Cal.App.4th 44, 92 ("The first step involves the lodestar figure—a calculation based on the number of hours reasonably expended multiplied by the lawyer's hourly rate. 'The lodestar figure may then be adjusted, based on consideration of factors specific to the case, in order to fix the fee at the fair market value for the legal services provided.'... The factors to be considered include the nature and difficulty of the litigation, the amount involved, the skill required and employed to handle the case, the attention given, the success or failure, and other circumstances in the case." (internal citations omitted).

The Court finds that the 276.6 hours expended is reasonable, as Counsel has provided extensive billing information showing the time expended. Given the relaxed standards for such hours expended in a cross-check context where the time expended appears in the range of reasonableness, the Court turns to the hourly rates requested.

Plaintiffs' counsel is a locally situated attorney with 32 years of experience. He requests \$700 per hour, which while at the top end of the fee range appropriate in the county, appears justified based on the experience and expertise of counsel.

Plaintiff also argues for a multiplier of ~1.36. The obvious factor which merits application of a multiplier is the contingent nature of the case. Class Counsel's qualifications neither fall short of or exceed the counsel which normally appear in these types of cases. Counsel provides exposition on the difficulties of this case, but the dangers described are far from novel when examining wage and hour class claims. Counsel committed a significant number of hours to the case which would limit his capacity for other work. As is covered above, the Court finds the recovery sufficiently reasonable, and given the particular considerations here that the Court applies some multiplier. The multiplier proposed by counsel seems supported by the applicable

factors. However, given that the question is whether the lodestar may reasonably be multiplied to reach the amount in the percentage recovery method, the required multiplier would be ~1.3584. The requested fees of \$263,307.00 appear supported by both the common fund method and the lodestar cross-check.

The Court approves Class Counsel Fees in the amount of \$263,307.

Plaintiff's counsel also seeks \$13,250.92 litigation-related costs and attaches a cost report and declarations substantiating that sum. Velez Decl. Ex. 5. This is the amount preliminarily approved, and appears appropriate. The Court approves costs in the amount of \$13,250.92

Based on the foregoing, Plaintiffs' request for attorney's fees and costs is granted in the amount of \$263,307.00 for fees and \$13,250.92 in costs.

Plaintiffs also seek a service award in the amount of \$10,000 to each Plaintiff (total \$20,000) for Plaintiffs' participation in the case. "[C]riteria courts may consider in determining whether to make an incentive award include: 1) the risk to the class representative in commencing suit, both financial and otherwise; 2) the notoriety and personal difficulties encountered by the class representative; 3) the amount of time and effort spent by the class representative; 4) the duration of the litigation and; 5) the personal benefit (or lack thereof) enjoyed by the class representative as a result of the litigation.' [citation] These 'incentive awards' to class representatives must not be disproportionate to the amount of time and energy expended in pursuit of the lawsuit." See *Cellphone Termination Fee Cases* (2010) 186 Cal.App.4th 1380, 1394-95. See also *Ridgeway v. Wal-Mart Stores Inc.* (N.D. Cal. 2017) 269 F. Supp. 3d 975, 1003 (citing *Bellinghausen v. Tractor Supply Co.* (N.D. Cal. 2015) 306 F.R.D. 245, 266-67, which in turn collected cases and explained that a \$5,000 incentive award is presumptively reasonable in that district and that awards typically range from \$2,000–\$10,000).

Plaintiffs argue that this award is reasonable in light of their role as representative of the class. In particular, Plaintiffs cites their role in providing substantive information and documents to counsel and reviewing documents and the Settlement Agreement, and the risk of possibly bearing Defendant's costs if they did not prevail. See Declaration of Shantell Reed; Declaration of Chad Schisler. Reed and Schisler spent at least 28 and 35 hours working on the case respectively. Their involvement is a matter of public record potentially affecting future employment prospects.

Based on the time expended, the exposure and risk, and the duration of the litigation, the request is for the reasonable award of \$10,000 to each Plaintiff under the factors described in *Cellphone Termination*, 186 Cal.App.4th at 1394-95. The Court finds the award, despite being on the high end of the normal range, reasonable.

Plaintiffs' request for a personal representative enhancement award is approved in the amount of \$10,000 each, for a total of \$20,000.

VII. Conclusion

Based on the foregoing:

1. The Court, for purposes of this Order, adopts all defined terms and conditions as set forth in the Settlement Agreement filed in this case.
2. The Court has jurisdiction over the subject matter of this litigation and the Class Representatives, the other members of the Class, and Defendants.
3. The Court finds that the dissemination of the Class Notice as disseminated to the Class Members, constituted the best notice practicable under the circumstances to all persons within the definition of the Class, and fully met the requirements of California law and due process under the United States Constitution.
4. The Court approves the Settlement of the above-captioned action, as set forth in the Settlement Agreement, as fair, just, reasonable, and adequate as to the Settling Parties. The Settling Parties are directed to perform in accordance with the terms set forth in the Settlement Agreement.
5. Except as otherwise provided in the Settlement Agreement, the Settling Parties are to bear their own costs and attorneys' fees.
6. The Court hereby certifies the following Class for settlement purposes only: all persons employed by Defendants in California as a non-exempt employee during the Class Period from September 20, 2020 through June 18, 2025. The Court approves the class of Aggrieved Employees under the PAGA claims as all persons who were employed by Defendants in California as a non-exempt employee between September 20, 2023 through June 18, 2025.
7. With respect to the Class and for purposes of approving the settlement only and for no other purpose, this Court finds and concludes that: (a) the members of the Class are ascertainable and so numerous that joinder of all members is impracticable; (b) there are questions of law or fact common to the Class, and there is a well-defined community of interest among members of the Class with respect to the subject matter of the claims in this litigation; (c) the claims of Class Representative is typical of the claims of the members of the Class; (d) the Class Representative has fairly and adequately protected the interests of the members of the Class; (e) a class action is superior to other available methods for an efficient adjudication of this controversy; and (f) the counsel of record for the Class Representative, i.e., Class Counsel, are qualified to serve as counsel for the Plaintiff in his individual and representative capacity and for the Class.
8. Defendant shall fund **\$790,000** of the total Gross Settlement Fund pursuant to the terms of the Settlement Agreement. This amount includes all costs in ¶ 10 below.
9. The Court approves the Individual Settlement Payment amounts, which shall be distributed pursuant to the terms of the Settlement Agreement.
10. Defendant shall pay (a) to Class Counsel attorneys' fees in the amount of **\$263,307** and reimbursement of litigation costs in the amount of **\$13,250.92**; (b) enhancement payment

to the Class Representatives Shantelle Reed and Chad Schisler in the amount of **\$20,000.00 (\$10,000 each)**; (c) the sum of **\$40,000.00** to be paid to the LWDA (\$30,000) and Aggrieved Employees (\$10,000) for PAGA Penalties; and (d) **\$8,490.00** to the Claims Administrator, Apex Class Action, LLC, for the costs relating to the claims administration process in this matter. The Court finds that these amounts are fair and reasonable. Defendant is directed to make such payments from the Gross Settlement Amount and in accordance with the terms of the Settlement Agreement.

11. The Court will enter final judgment in this case in accordance with the terms of the Settlement, Preliminary Approval Order, and this Order. Without affecting the finality of the Settlement or judgment, this Court shall retain exclusive and continuing jurisdiction over the action and the Parties, including all Class Members, for purposes of enforcing and interpreting this Order and the Settlement.

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

3. 25CV00413, LoanDepot.com, LLC v. Hernandez

Plaintiff LoanDepot.com, LLC ("Plaintiff") filed the presently operative first amended complaint ("Complaint") for unlawful detainer of the property commonly known as 3101 Hoen Avenue, Santa Rosa California (the "Property") against defendants Ismael Barragan Hernandez ("Defendant"), as well as and Does 1-10.

This matter is on calendar for the motion by the Defendant for summary judgment or in the alternative adjudication pursuant to Cal. Code Civ. Proc. ("CCP") § 437c as to the Complaint.

The Court has issued an order granting Plaintiff's summary judgment. Given that the matter has been summary adjudicated, Defendant's motion for summary judgment does not appear to be at issue. The matter is **DROPPED** from calendar as **MOOT**.

4-5. 25CV01187. Jones v. Petaluma Fitness, LLC.

Plaintiff Jill Jones ("Plaintiff") filed the complaint (the "Complaint") in this action against defendants Petaluma Fitness, LLC ("PFL"), Napa Fitness, LLC ("NFL"), Santa Rosa Fitness, LLC ("SRFL"), Leanne Ruiz ("Ruiz", together with PFL, NFL and SRFL, "Defendants"), and Does 1-10 for alleged labor law violations.

This matter is on calendar for the motion by Plaintiff to compel Defendants to produce responsive documents ("RPODs") under Code of Civil Procedure ("CCP") § 2031.320. The motion is GRANTED. The requests for sanctions thereon are DENIED. Defendants' request for sanctions are GRANTED in part.

I. Evidentiary and Procedural Issues

Defendants filed their Opposition on May 22, 2026, two days after the time required under CCP § 1005. (Oppositions are due 9 court days before the hearing date.) The Court has the discretion to disregard untimely filings. Cal. Rule of Court, Rule 3.1300 (d). Here, while Plaintiff avers prejudice, nothing sufficiently substantive is shown. The Court considers the untimely Opposition.

Plaintiff has also filed a motion to compel compliance with an order for monetary sanctions. Neither party has addressed the matter in their subsequent briefing, and there is no proof of service for the hearing date on that motion. Accordingly, that motion is DROPPED from calendar.

II. Governing Law

A. Discovery Generally

The right to discovery is generally liberally construed. *Williams v. Superior Court* (2017) 3 Cal.5th 531, 540. “California law provides parties with expansive discovery rights.” *Lopez v. Watchtower Bible & Tract Society of N.Y., Inc.* (2016) 246 Cal.App.4th 566, 590-591. Specifically, the Code provides that “any party may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter involved in the pending action or to the determination of any motion made in that action, if the matter either is itself admissible in evidence or appears reasonably calculated to lead to the discovery of admissible evidence.” CCP § 2017.010; see also, *Garamendi v. Golden Eagle Ins. Co.* (2004) 116 Cal.App.4th 694, 712, fn. 8. (“For discovery purposes, information is relevant if it ‘might reasonably assist a party in evaluating the case, preparing for trial, or facilitating settlement...’) See *Lopez, supra*, 246 Cal.App.4th at 590-591, citing *Garamendi, supra*, 116 Cal.App.4th at 712, fn. 8. “Admissibility is not the test and information[,] unless privileged, is discoverable if it might reasonably lead to admissible evidence.” *Id.* “These rules are applied liberally in favor of discovery, and (contrary to popular belief), fishing expeditions are permissible in some cases.” *Id.* Good cause can be met through showing specific facts of the case and the relevance of the requested information. *Associated Brewers Distributing Co. v. Superior Court of Los Angeles County* (1967) 65 Cal.2d 583, 586–587. “(T)he good cause which must be shown should be such that will satisfy an impartial tribunal that the request may be granted without abuse of the inherent rights of the adversary. There is no requirement, or necessity, for a further showing.” *Greyhound Corp. v. Superior Court In and For Merced County* (1961) 56 Cal.2d 355, 388. As the right to discovery is liberally construed, so too is good cause. *Id.* at 377-378. Generally, failure to assert a discovery objection in a response waives that objection later. *Stadish v. Superior Court* (1999) 71 Cal.App.4th 1130, 1140.

B. Requests for Production of Documents

Regarding the RPODs, a demand for production may request access to “documents, tangible things, land or other property, and electronically stored information in the possession, custody, or control” of another party. 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. CCP § 2031.210(a). If only part of an item or category demanded is objectionable, the

response must contain an agreement to comply with the remainder, or a representation of the inability to comply. CCP § 2031.240(c)(1). If a responding party is not able to comply with a particular request, that party “shall affirm that a diligent search and a reasonable inquiry has been made in an effort to comply with that demand.” CCP § 2031.230. “This statement shall also specify whether the inability to comply is because the particular item or category has never existed, has been destroyed, has been lost, misplaced, or stolen, or has never been, or is no longer, in the possession, custody, or control of the responding party” and “[t]he statement shall set forth the name and address of any natural person or organization known or believed by that party to have possession, custody, or control of that item or category of item.” *Id.* CCP § 2031.240(c)(1) provides that when asserting claims of privilege or attorney work product protection, the objecting party must provide “sufficient factual information” to enable other parties to evaluate the merits of the claim, “including, if necessary, a privilege log.”

Upon receipt of a response to a request for production, the propounding party may move for an order compelling further response if the propounding party deems that a statement of compliance with the demand is incomplete; a representation of inability to comply is inadequate, incomplete, or evasive; or an objection in the response is without merit or too general. CCP § 2031.310(a). A motion to compel further responses to a request for production of documents must “set forth specific facts showing ‘good cause’ justifying the discovery sought by the demand.” CCP § 2031.310(b)(1). Absent a claim of privilege or attorney work product, the party who seeks to compel production has met his burden of showing ‘good cause’ simply by showing that the requested documents are relevant to the case, *i.e.*, that it is itself admissible in evidence or appears reasonably calculated to lead to the discovery of admissible evidence under CCP § 2017.010. *See also Kirkland v. Sup. Ct.* (2002) 95 Cal.App.4th 92, 98. Once good cause is shown, the burden shifts to the responding party to justify its objections. *See Coy*, 58 Cal.2d at 220–221. It is insufficient to claim that a requested document is within the possession of another person if the party has control over that document. *Clark v. Superior Court of State In and For San Mateo County* (1960) 177 Cal.App.2d 577, 579.

In addition to responding to the requests for documents, a party responding to the demand shall produce the documents “on the date specified in the demand”. CCP § 2031.280 (b). “If a party filing a response to a demand for inspection, copying, testing, or sampling under Sections 2031.210, 2031.220, 2031.230, 2031.240, and 2031.280 thereafter fails to permit the inspection, copying, testing, or sampling in accordance with that party's statement of compliance, the demanding party may move for an order compelling compliance.” CCP § 2031.320 (a).

“System metadata is relevant if the authenticity of a document is questioned. Metadata thus is discoverable if it is relevant to the claim or defense of any party and is not privileged.” *Ellis v. Toshiba America Information Systems, Inc.* (2013) 218 Cal.App.4th 853, 859, fn. 5.

C. Sanctions

CCP § 2031.320(b) (relating to failure to produce documents) provides that a monetary sanction “shall” be imposed against the party losing a motion to compel further responses unless the court finds “substantial justification” for that party’s position or other circumstances making sanctions “unjust.” There is no requirement that the failure to comply with discovery be willful for the

court to impose monetary sanctions. *Ellis v. Toshiba America Information Systems, Inc.* (2013) 218 Cal.App.4th 853, 878. For the court to order sanctions against an attorney, the Court must find that the attorney advised their client to engage in discovery misconduct. *Kwan Software Engineering, Inc. v. Hennings* (2020) 58 Cal.App.5th 57, 81. Additionally, the motion must advise the attorney that joint and several liability against the attorney is sought for the sanctions. *Blumenthal v. Superior Court* (1980) 103 Cal.App.3d 317, 319.

III. Analysis

Plaintiff served RPODs on July 17, 2025. Defendants did not provide timely responses, and Plaintiff moved to compel, which on October 23, 2025, the Court found moot due to provision of substantive responses. The Court's order also found that objections had been waived by the untimely responses.

Plaintiff's positions are anywhere from unavailing to perturbing to the Court. Plaintiff contends that Defendants must produce further documents with no good cause shown because their objections had been waived. Such expansive view misallocates the burden on discovery motions. Good cause is Plaintiff's burden as the movant. If Plaintiff meets their burden to show good cause, analysis would then turn to determine whether any objections remained viable. Plaintiff must show that Defendants failed to permit the inspection *as noticed*. Plaintiff is not entitled to further substantive production (and sanctions) simply because they don't like the production at issue.

As to the averment of altered documents, Defendants show that Plaintiff's evidence attempting to convince the Court of altered documents is supported by incomplete representations of what Defendants produced. The Bates numbers of the documents presented by both Plaintiff and Defendants makes clear that Defendants contention in this regard is meritorious. Plaintiff complains regarding missing information on Bates PF_001052, averring that this indicates that it is an alteration of an email sent December 18, 2024 (Bates PLTF000132). However, Defendant produces Bates PF_001051, which contains the purportedly missing information, showing that PF_001052 was an email sent December 16, 2024. This material omission is concerning. Plaintiff has not provided any credible evidence of altered or materially omitted documents.

Plaintiff also takes issue with emails which were produced in an unreadable format, comprised of a readable column so narrow it is comprised of a single letter per line. Defendants contend that they produced the same information in a more readable format at PF_000935 – PF_000949. As the Court notes below, Plaintiff requested documents in the manner in which they were kept in the normal course of business. If Defendants had changed the documents to render them "usable", Plaintiff may very well be opining that Defendants failed to produce the documents in native format. Plaintiff's averment that they are not "usable" is not persuasive, because they *are* produced in a usable format elsewhere. Defendants' production of both a legible version of the documents and a "native" version appear to satisfy all of the possible permutations of Plaintiff's request. Plaintiff does not show good cause why Defendants should produce the same documents a third time.

Plaintiff strongly avers that metadata is discoverable but fails to provide either a citation on point or evidence that such matters should be compelled. As an initial concern, on Reply Plaintiff states: “Metadata itself is discoverable where, as here, authenticity, chronology, authorship, recipients, and completeness are directly at issue, and Plaintiff is entitled to receive the emails and texts as requested in its native ESI format. (*Toshiba America Electronic Components, Inc. v. Superior Court* (2004) 124 Cal.App.4th 762).” Reply, pg. 5:24-27. Nothing within that case stands for anything of the sort. In its own research, the Court found an applicable case. “System metadata is relevant if the authenticity of a document is questioned. Metadata thus is discoverable if it is relevant to the claim or defense of any party and is not privileged.” *Ellis v. Toshiba America Information Systems, Inc.* (2013) 218 Cal.App.4th 853, 859, fn. 5 (quoting and adopting position of federal court). The miscitation draws significant scrutiny given the particular nature of the error. The cases have similar names, but Plaintiff’s subsequent citation has no pin cite or quote. These are typically attributable to errors derived from “AI” citations, which commonly obfuscate their lack of true understanding with a lack of precision. There does not appear to be sufficient evidence for the Court to reach substantive conclusions, and the Court declines to pursue the matter further. Plaintiff’s counsel should take caution in erroneous citations going forward.

Plaintiff’s averment that metadata should be discoverable nonetheless fails on its merits. Plaintiff demanded documents be “produced as they are kept in the usual course of business...” Strickland Declaration, Ex. G, Instructions ¶ C. Documents are to be produced in the form requested, or if there is no request “in the form or forms in which it is ordinarily maintained or in a form that is reasonably usable.” CCP § 2031.280(d)(1). First, nothing within the RPODs itself requests metadata or any permutation of language that would indicate that metadata is particularly included in the request. Second, native format does not necessarily lend itself to preservation of metadata. No case says as much, and the Court’s cited authority in fact concludes the opposite. As the Court has already addressed, Plaintiff does not display that any of the other production is *actually* indicative of malfeasance or omission. Metadata only becomes discoverable where “the authenticity of a document is questioned.” *Ellis v. Toshiba America Information Systems, Inc.* (2013) 218 Cal.App.4th 853, 859, fn. 5. While this appears to be an ascertainable and relevant standard, Plaintiff does not meet it. Moreover, reading *Ellis* would make clear that there is *no* inherent right to metadata, but rather that production of metadata is tied to a showing of good cause thereon. There is no good cause for production of metadata, and accordingly there is no basis for ordering its inspection.

Plaintiff’s motion is DENIED.

IV. Sanctions

Plaintiff has not prevailed on the motion. Plaintiff’s request for sanctions is DENIED. Defendant has prevailed, and requests \$4,550 in sanctions representing 6 hours for meet and confer, 7 hours for the opposition at \$350 per hour. The hourly rate is reasonable. 13 hours for meet and confer efforts and opposition greatly exceeds what appears reasonable based on the evidence of meet and confer efforts and the substance of the opposition. The Court finds 2 hours for meet and confer, and 5 hours for the opposition reasonable. This results in attorney’s fees of \$2,450. The

opposition does not specifically notice Plaintiff's counsel and that the sanctions are sought against him personally, and accordingly, they are only ordered against Plaintiff.

Defendants' request for sanctions is **GRANTED** in the amount of \$2,450. Plaintiff is to pay this amount within 30 days of notice of this order.

V. Conclusion

The Motion to compel is **DENIED**. Plaintiffs' requests for sanctions is **DENIED**. Defendants' request for sanctions is **GRANTED** in the amount of \$2,450. Plaintiff is to pay this amount within 30 days of notice of this order.

Defendants 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).

6. **25CV05972, JPMorgan Chase Bank N.A. v. Marin Valencia**

Motion is dropped due to the filing of the Dismissal of the Entire Action.

7. **SCV-267562, Wagner v. Messana**

Plaintiff Deborah Wagner ("Plaintiff"), in her capacity as trustee of the Separate Share Trust for Charles Joseph Messana ("Charles") filed the complaint in this action ("Complaint") against Russell C. Messana ("Messana") and Amber Merkel ("Merkel" succeeding in interest deceased Chris Merkel [d. 2021], together with Messana, "Individual Defendants"), along with nominal defendant TJRV & Boat Storage, LLC ("TJRV LLC"), TJRV (together "Defendants") with Does 5-20 with causes arising out of controversies over the real property at 4266 Santa Rosa Avenue, Santa Rosa ("the Property") which is subject to a partition judgment ("the Judgment") in *Wagner v. Messana, et al.*, SCV-260727 ("the Partition Action"). Plaintiff has subsequently amended to name "TJ Recreational Vehicle & Boat Storage", "TJ RV & Boat Storage", "TJ Recreational Vehicle Storage" and "TJ RV Storage" as Does 1-4 respectively ("Doe Defendants") as nominal defendants. Plaintiffs contend that the Court cannot rule on the demurrer because there is currently an appeal pending.

This portion of the action being stayed pending appeal (CCP § 916), the demurrer currently on calendar is continued to December 16, 2026, at 3:00 pm in Department 19. Assuming remittitur has issued at least 9 court days prior to that date, any briefing will be in accordance with the timeline within CCP § 1005.

SPECIAL SET AT 3:30 P.M.

Santa Rosa City School District v. Ainsworth, 26CV00495

Petitioner Santa Rosa City School District ("Petitioner", or the "District") filed the petition for workplace violence restraining order (the "Petition") on behalf of Sara Stathatos ("Stathatos" or

“Protected Employee”) in this action against respondent Laura Ainsworth (“Respondent”). This matter is on calendar for Respondent’s Anti-SLAPP motion under CCP § 425.16.

The Anti-SLAPP motion is DENIED.

I. Petition as Related to the Motion

Petitioner alleges that Respondent has undertaken a course of conduct related to her marital relationship and current dissolution proceedings with a District employee. Stathatos is the current principle of the school where Respondent’s “estranged” spouse works. Respondent has emailed Stathatos over 100 times since September 2025. Some of the emails are directly addressed to Stathatos, some to other District staff, and some to a third party, Adina Flores (“Flores”), which the Petition alleges is conspiring with Respondent to harass Stathatos. The contents of the emails vary in subject matter and tone, between allegations related to sexual abuse that was covered up by a third party entity, to child abuse allegations against Respondent’s spouse, to the District’s violation of CANRA for failing to act on Respondent’s allegations, to personal attacks directed at Stathatos. Frequently, the emails call for Stathatos to be terminated from her employment. The District issued a 14-day stay away order under Penal Code § 626.4 against Respondent on August 13, 2025. Twice in October 2025, Respondent came to the school campus seeking to speak to Stathatos. Stathatos was not present, but on the second visit Respondent was informed that Stathatos did not wish to speak to her, even if Stathatos were present on campus. On December 12, 2025, Respondent again came to the school and confronted Stathatos. Stathatos told Respondent she did not want to talk to her and ordered her to leave under Education Code § 32211. Respondent refused, and Stathatos called the police. Respondent refused to leave until police arrived and spoke to her.

II. Evidentiary and Procedural Issues

While the Petition contains significant alleged conduct by Flores, neither party provides any briefing related to the relative application of Anti-SLAPP statutes to conduct of third parties provided in the complaint, or the issuance of restraining orders under CCP § 527.8 for third party conduct under a conspiracy principle when the third party is not part of the case. Since neither party briefs the issue, it is not considered in any capacity.

III. Governing Authorities

A. Anti-SLAPP

CCP § 425.16(b)(1) provides that a cause of action against a person “arising from any act of that person in furtherance of the person’s right of petition or free speech under the United States Constitution or the California Constitution in connection with a public issue” shall be subject to a special motion to strike, unless the court determines that the plaintiff has established that there is a probability that the plaintiff will prevail on the claim. CCP § 425.16(e)(1) defines the foregoing phrase to include “any written or oral statement or writing made before a legislative, executive, or judicial proceeding, or any other official proceeding authorized by law.” “In making its

determination, the court shall consider the pleadings, and supporting and opposing affidavits stating the facts upon which the liability or defense is based.” CCP § 425.16(b)(2).

A defendant has the initial burden to make a prima facie showing that the complaint “arises from” her exercise of free speech or petition rights. *Equilon Enterprises, LLC v. Consumer Cause, Inc.* (2002) 29 Cal.4th 53, 61; *Governor Gray Davis Committee v. American Taxpayers Alliance* (2002) 102 Cal.App.4th 449 at 458-59. “At the first step of the analysis, the defendant must make two related showings. Comparing its statements and conduct against the statute, it must demonstrate activity qualifying for protection. (See § 425.16, subd. (e).) And comparing that protected activity against the complaint, it must also demonstrate that the activity supplies one or more elements of a plaintiff’s claims.” *Wilson v. Cable News Network, Inc.* (2019) 7 Cal.5th 871, 887. If they meet that initial burden, the burden shifts to the plaintiff to establish a “probability” that he will prevail on the claims which are based on protected activity. CCP § 425.16(b). To establish a “probability” of prevailing on the merits, the plaintiff must demonstrate that the claim is both legally sufficient and supported by a prima facie showing of facts sufficient to support a favorable judgment if the evidence submitted by the plaintiff is credited. *Navelier v. Sletten* (2002) 29 Cal.4th 82, 89. The court does not weigh credibility or comparative strength of the evidence in making this summary judgment-like determination. *See, e.g. Soukup v. Law Offices of Herbert Hafif* (2006) 39 Cal.4th 260, 291. But to demonstrate a probability of prevailing on the merits, the plaintiff must produce admissible evidence sufficient to overcome any privilege or defense that the defendant has asserted to the claim. *See, e.g. Flatley v. Mauro* (2006) 39 Cal.4th 299, 323 (Civil Code section 47(b) litigation privilege is a substantive defense the plaintiff must overcome to demonstrate probability of prevailing). In making its determination, the Court considers the pleadings, as well as supporting and opposing affidavits. CCP § 425.16(b). No finding of intent to chill free speech, or actual chilling of free speech, is required. *Equilon*, 29 Cal.4th 58-59.

If the motion to strike is directed to the entire complaint, it is sufficient to determine whether any of the alleged acts constitute a cause of action, and if one exists the motion may be denied. *Baral v. Schnitt* (2016) 1 Cal.5th 376, 391. “(T)he trial court is not required to take on the burden of identifying the allegations susceptible to a special motion to strike. If a defendant wants the trial court to take a surgical approach, whether in the alternative or not, the defendant must propose where to make the incisions. This is done by identifying, in the initial motion, each numbered paragraph or sentence in the complaint that comprises a challenged claim and explaining ‘the claim’s elements, the actions alleged to establish those elements, and wh[y] those actions are protected.’” *Park v. Nazari* (2023) 93 Cal.App.5th 1099, 1109.

B. Determination of Protected Activity

Subdivision (e) sets forth the different types of activity which fall within the ambit of section 425.16. It states, in full,

As used in this section, “act in furtherance of a person’s right of petition or free speech under the United States or California Constitution in connection with a public issue” includes: (1) any written or oral statement or writing made before a legislative, executive, or judicial proceeding, or any other official proceeding

authorized by law, (2) any written or oral statement or writing made in connection with an issue under consideration or review by a legislative, executive, or judicial body, or any other official proceeding authorized by law, (3) any written or oral statement or writing made in a place open to the public or a public forum in connection with an issue of public interest, or (4) any other conduct in furtherance of the exercise of the constitutional right of petition or the constitutional right of free speech in connection with a public issue or an issue of public interest.

“If the acts alleged in support of the plaintiff’s claim are of the sort protected by the anti-SLAPP statute, then anti-SLAPP protections apply.” *Wilson v. Cable News Network, Inc.* (2019) 7 Cal.5th 871, 887. The alleged wrongful conduct must itself have been protected activity, and the anti-SLAPP statute does not apply merely because the allegations refer to or in some manner tangentially touch on events that include protected activity. *Old Republic Construction v. The Boccardo Law Firm* (2014) 230 Cal.App.4th 859, 867-868. “Allegations of protected activity that merely provide context, without supporting a claim for recovery, cannot be stricken under the anti-SLAPP statute.” *Baral v. Schnitt* (2016) 1 Cal.5th 376, 394. In making its determination, the court shall consider the pleadings, and supporting and opposing affidavits stating the facts upon which the liability or defense is based.” CCP, § 425.16 (b)(2). The supporting affidavits, and even the arguments made in opposition may be considered by the court when determining whether the allegations constitute protected activity. *Bonni v. St. Joseph Health System* (2021) 11 Cal.5th 995, 1017, fn. 5.

The court must determine whether the content of the speech relates to an issue of public interest, and whether the conduct furthered the discourse that makes the issue one of public interest. *FilmOn.com Inc. v. DoubleVerify Inc.* (2019) 7 Cal.5th 133, 145 (“*FilmOn*”). “*FilmOn*’s first step calls for an objective inquiry, without deference to the movant’s framing or personal motivations. A court evaluating an anti-SLAPP motion should take the position of a reasonable, objective observer.” *Geiser v. Kuhns* (2022) 13 Cal.5th 1238, 1254 (“*Geiser*”). “The *Weinberg* court distilled ‘some attributes of [an] issue which make it one of public, rather than merely private, interest,’ including the fact that the issue is ‘of concern to a substantial number of people’ or has ‘been the subject of extensive media coverage.’ (*Weinberg*, at pp. 1132, 1133, 2 Cal.Rptr.3d 385.)” *Id.* at 1248.

“Second, we look to the ‘functional relationship’ between the challenged activity and the ‘public conversation’ about that issue, and ask whether the activity ‘contribute[s]’ to public discussion of the issue.” *Geiser, supra*, 13 Cal.5th at 1249. “(U)ltimately, our inquiry does not turn on a normative evaluation of the substance of the speech. We are not concerned with the social utility of the speech at issue, or the degree to which it propelled the conversation in any particular direction; rather, we examine whether a defendant—through public or private speech or conduct—participated in, or furthered, the discourse that makes an issue one of public interest.” *FilmOn.com, supra*, 7 Cal.5th at 151.

Five factors generally tend to make a statement implicate a public interest:

1. The statement concerns a person or entity in the public eye;

2. the statement concerns conduct that could directly affect a large number of people beyond the direct participants;
3. the statement concerns a topic of widespread public interest;
4. the issue is of concern to a substantial number of people; or
5. the issue has been the subject of extensive media coverage. (*Ibid.*)

Dubac v. Itkoff (2024) 101 Cal.App.5th 540, 548–549.

"Some cases have suggested that ambiguous pleading can in some instances make a suit not a SLAPP. (Citation). . . The statute instructs us to take account of [] additional allegations [presented in the evidence] in our analysis. (See § 425.16, subd. (b)(2) [courts ruling on anti-SLAPP motions “shall consider the pleadings, and supporting and opposing affidavits stating the facts upon which the liability or defense is based”].)” *Bonni v. St. Joseph Health System* (2021) 11 Cal.5th 995, 1017, fn. 5.

C. Probability of Success on the Merits

“(T)he plaintiff must demonstrate that the complaint is both legally sufficient and supported by a sufficient prima facie showing of facts to sustain a favorable judgment if the evidence submitted by the plaintiff is credited.” *Navellier v. Sletten* (2002) 29 Cal.4th 82, 88–89, internal quotations omitted. Conclusory allegations will not protect insufficient claims from anti-SLAPP remedies. *Dowling v. Zimmerman* (2001) 85 Cal.App.4th 1400, 1423. Plaintiff is charged with producing “competent and admissible evidence” to meet this burden *Tuchscher Development Enterprises, Inc. v. San Diego Unified Port Dist.* (2003) 106 Cal.App.4th 1219, 1236. The court must “accept as true all evidence favorable to the plaintiff and assess the defendant's evidence only to determine if it defeats the plaintiff's submission as a matter of law.” *Overstock.com, Inc. v. Gradient Analytics, Inc.* (2007) 151 Cal.App.4th 688, 699–700.

1. Workplace Violence Restraining Orders

CCP § 527.6 entitles an employer to obtain injunctive relief on behalf of an employee restraining the conduct of another person from engaging in “harassment”. *Id.* at subd. (a). “‘Harassment’ is unlawful violence, a credible threat of violence, or a knowing and willful course of conduct directed at a specific person that seriously alarms, annoys, or harasses the person, and that serves no legitimate purpose. The course of conduct must be that which would cause a reasonable person to suffer substantial emotional distress, and must actually cause substantial emotional distress to the petitioner.” *Id.* at subd. (b)(3). “‘Course of conduct’ is a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose, including following or stalking an individual, making harassing telephone calls to an individual, or sending harassing correspondence to an individual by any means, including, but not limited to, the use of public or private mails, interoffice mail, facsimile, or email.” *Id.* at subd. (b)(1).

2. Access to School Grounds

Any person who is not a pupil of the public school, a parent or guardian of a pupil of the public school, or an officer or employee of the school district maintaining the public school, or who is not required by his or her employment to be in a public school building or on the grounds of the public school, and who has entered any public school building or the grounds of any public school, during school hours, and who is requested either by the principal of the public school or by the designee of the principal to leave a public school building or public school grounds, shall promptly depart therefrom and shall not return thereto for at least seven days. A request that a person depart from a public school building or public school grounds shall be made by the principal, or the designee of the principal, exclusively on the basis that it appears reasonable to the principal, or the designee of the principal to conclude that the continued presence of the person requested to depart would be disruptive of, or would interfere with, classes or other activities of the public school program.

Ed. Code, § 32211.

“California's constitutional mandate and statutory scheme clearly demonstrate that schools are special places in terms of public access. Given the constitutional direction that students have a right to be safe and the legislative findings that outsiders commit a disproportionate number of the crimes on school grounds, access to schools is limited. Those who visit during school hours must register and declare their identity and purpose. Those who are asked to leave, whether or not required to register, must do so or else be guilty of a misdemeanor. Those who repeatedly return to cause disruption are also guilty of a misdemeanor.” *In re Joseph F.* (2000) 85 Cal.App.4th 975, 984.

3. Litigation Privilege

The litigation privilege of Civil Code section 47(b), bars a civil action for damages for communications made “[i]n any (1) legislative proceeding, (2) judicial proceeding, (3) in any other official proceeding authorized by law, or (4) in the initiation or course of any other proceeding authorized by law and reviewable pursuant to [statutes governing writs of mandate].”

4. CANRA

The Child Abuse and Neglect Reporting Act (“CANRA”), Penal Code § 11164, *et seq.*, imposes obligations on categories of persons designated as “mandatory reporters. See Penal Code § 11165.7. Subject to exceptions, “a mandated reporter shall make a report to an agency specified in Section 11165.9 whenever the mandated reporter, in the mandated reporter's professional capacity or within the scope of the mandated reporter's employment, has knowledge of or observes a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect.” Pen. Code, § 11166 (a). *P.S. v. San Bernardino City Unified School Dist.* (2009) 174 Cal.App.4th 953.

5. Whistleblower Protection

“An employer, or any person acting on behalf of the employer, shall not retaliate against an employee for disclosing information, or because the employer believes that the employee disclosed or may disclose information, to a government or law enforcement agency, to a person with authority over the employee or another employee who has the authority to investigate, discover, or correct the violation or noncompliance, or for providing information to, or testifying before, any public body conducting an investigation, hearing, or inquiry, if the employee has reasonable cause to believe that the information discloses a violation of state or federal statute, or a violation of or noncompliance with a local, state, or federal rule or regulation, regardless of whether disclosing the information is part of the employee’s job duties.” Cal. Labor Code § 1102.5 (b). Labor Code § 1102.6 provides that “[i]n a civil action or administrative proceeding brought pursuant to Section 1102.5, once it has been demonstrated by a preponderance of the evidence that an activity proscribed by Section 1102.5 was a contributing factor in the alleged prohibited action against the employee, the employer shall have the burden of proof to demonstrate by clear and convincing evidence that the alleged action would have occurred for legitimate, independent reasons even if the employee had not engaged in activities protected by Section 1102.5.”

6. Marsy’s Law

Victims of crimes in California are entitled to protections under the California Constitution protecting them from inquiries by the defendant. Cal. Const., art. I, § 28. However, this protection only applies to “victims”, and therefore does not apply to civil or family proceedings with the same parties. *Slaieh v. Superior Court of Riverside County* (2022) 77 Cal.App.5th 266, 275.

D. Attorney’s Fees

The “prevailing defendant” on a motion to strike a SLAPP suit “shall be entitled” to recover fees and costs and if a plaintiff prevails, the court “shall award costs and reasonable attorney's fees” to the plaintiff but only pursuant to CCP section 128.5 and “[i]f the court finds that [the motion] is frivolous or is solely intended to cause unnecessary delay.” CCP section 425.16(c), emphasis added; *Baughn v. Department of Forestry & Fire Protection* (2016) 246 Cal.App.4th 328, 341 (court cannot award fees absent a finding that the motion was frivolous.). In both cases, the award is mandatory. *Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1131; *Foundation for Taxpayer & Consumer Rights v. Garamendi* (2005) 132 Cal.App.4th 1375, 1388 (mandatory for prevailing plaintiff if court finds motion to be frivolous).

When a motion has even partial merit, it cannot be construed as frivolous. *Gerbosi v. Gaims, Weil, West & Epstein, LLP* (2011) 193 Cal.App.4th 435, 450. “Frivolous in this context means that any reasonable attorney would agree the motion was totally devoid of merit.(Citation.)” *Ibid.*

IV. Analysis

A. Respondent Fails to Show That the Case Arises from Protected Activity

Respondent avers that the conduct at issue is “protected” as defined by the Anti-SLAPP statute. Respondent lumps the entire Petition together but provides no specific statement as to what she intends to strike. Respondent does not particularly identify what specific portions of the Petition are or are not protected activity. Accordingly, her burden is to show that the entire Petition arises from protected activity. “Where a defendant moves to strike the entire complaint and fails to identify, with reasoned argument, specific claims for relief that are asserted to arise from protected activity, the defendant does not carry his or her first-step burden so long as the complaint presents at least one claim that does not arise from protected activity.” *Park v. Nazari* (2023) 93 Cal.App.5th 1099, 1108. Since Respondent does not identify what she intends to strike, the only reasonable alternative to interpreting the motion (as filed) moving to strike the entire Petition is to conclude that it does not give sufficient notice to strike anything. The analysis therefore turns to protected activity within the entire Petition.

In reading the motion, the Court concludes that Respondent argues that the utilization of emails and Respondent’s “whistleblowing” are protected activity. All of Respondent’s claims of whistleblowing rely on statutes related to employment. See Labor Code § 1102.5. There is nothing within the record to indicate that Respondent is an employee of Petitioner. While it does not appear dispositive as a matter of standing when considering whether issues decried meets the criteria required for protected activity, Respondent does not have standing to assert the legally defined “whistleblower” status under her cited authority. It is rather an issue of whether the conduct of Respondent on which the Petition relies meet the definition of public interest under the *FilmOn* test.

Fatal to Respondent’s motion, the Petition alleges a multitude of conduct by Respondent which is not protected. Respondent fails to display how her trespass on school ground is related to protected activity. Respondent entered campus on multiple occasions prior to the incident on December 12, 2025, and was told that Stathatos would not meet with her. Petitioner clearly displays that after notice to vacate the premises, Respondent’s refusal, regardless of her personal feelings about Stathatos, was violative of Education Code § 32211. Respondent offers no coherent explanation of how such conduct is protected. That Respondent felt that confronting Stathatos in person was appropriate to further her policy positions does not render her method thereon protected when it directly violates statutes.

Even if the Court restricted itself to considering the matters which Respondent substantively argues are protected activity, the content of Respondent’s speech varies in its subject matter. While Respondent stridently argues that her “whistleblowing” conduct is protected, the nature of the emails provided certainly are not uniform in presenting issues of public interest. In some emails, Respondent makes no mention of issues of CANRA or violations of Labor Code provisions, instead opining various insults, derogations and criticisms directed to Stathatos. See, e.g., Exhibit 6, District 0155, District 0162, District 0297.

Due to Respondent’s improvidently broad motion, the Court does not reach her contentions whether her contacts related to violations of CANRA and the Labor Code meet the factors for protected activity. The Petition is not wholly dependent on protected activity, and the Court is not required to sift through hundreds of emails on which Respondent fails to disambiguate

between matters which advance the public discourse, and those which utilize repeated communication to bully compliance. The Court is required to determine whether the “content” sufficiently implicates an issue of public interest, and whether it furthers the discourse thereon. Here, due to the various forms of conduct which are facially unrelated to the averred public issue, and have no relationship to furthering the discourse thereon, the motion fails to shift the burden at the first step. The Motion to Strike is DENIED.

B. Probability of Prevailing

Even if the motion were targeted only to conduct which was protected, the motion would otherwise fail at the second step.

First, the unprotected activity already identified is sufficient to support the “cause of action”, and therefore the Court cannot strike the entire Petition. Respondent trespassed on school grounds and refused lawful instructions to leave. She has subsequently expressed her intent to confront Stathatos again but for no apparent purpose other than to potentially intimidate, disparage, or irritate her.

The Court also notes that restraining orders under CCP § 527.8 are statutorily distinguishable due to the omission of key language relevant to the merits. CCP § 527.6 clearly states that “Constitutionally protected activity is not included within the meaning of ‘course of conduct.’”. The definition of a course of conduct under CCP § 527.8 contains *no such prohibition*. This is salient to the determination of whether Respondent’s purportedly protected conduct is relevant for the purposes of a probability of prevailing. Respondent concedes that she emailed Stathatos over a hundred times in her official capacity. This, in combination with the refusal to leave campus in compliance with Education Code § 32211, the expressed intent to continue harassing conduct, and the reference to Stathatos’s address which would reasonably be interpreted as intending to engage her at her home. Respondent misapprehends the bounds of her right to a captive audience. *Frisby v. Schultz* (1988) 487 U.S. 474, 487 (government may curtail right to captive audience at their home); *Huntingdon Life Sciences, Inc. v. Stop Huntingdon Animal Cruelty USA, Inc.* (2005) 129 Cal.App.4th 1228, 1259 (harassment at the home of an employee is a basis for a restraining order under CCP § 527.8). Petitioner has showed the necessary elements to display that Respondent undertook actionable conduct, and Stathatos was reasonably alarmed and harassed. The conduct undertaken, particularly the form and frequency thereon, serves no legitimate purpose.

In reviewing the evidence, there is more than sufficient basis to find that Petitioner has a probability of prevailing on their cause of action, even if the motion adequately identified protected activity.

V. Attorney’s Fees

Petitioner requests attorney’s fees for the costs of opposing the motion. Petitioner’s request is not provided with any specific attorney’s fees amount, nor any information related to the time expended. The Court constrains the decision to the analysis of whether the necessary predicate for plaintiff’s fees, that the motion is frivolous, is met. As the Court has analyzed above,

Respondent's motion to strike as articulated ignores substantial portions of the Petition, and Respondent does not otherwise show that there was any probability of prevailing on the motion. The motion is frivolous and may be subject to a motion for fees at a later time.

VI. Conclusion

Based on the foregoing, the Anti-SLAPP Motion is **DENIED**.

Petitioner 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).

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