Tentative Rulings for April 24, 2024
Department 502

For any matter where an oral argument is requested and any party to the hearing desires a remote appearance, such request must be timely submitted to and approved by the hearing judge. In this department, the remote appearance will be conducted through Zoom. If approved, please provide the department's clerk a correct email address. (CRC 3.672, Fresno Sup.C. Local Rule 1.1.19)

There are no tentative rulings for the following cases. The hearing will go forward on these matters. If a person is under a court order to appear, he/she must do so. Otherwise, parties should appear unless they have notified the court that they will submit the matter without an appearance. (See California Rules of Court, rule 3.1304(c).) ***The above rule also applies to cases listed in this "must appear" section.***

20CECG00750 ***Schlepp v. Trevino*** **(Dept. 502)**

The court has continued the following cases. The deadlines for opposition and reply papers will remain the same as for the original hearing date.

22CECG01415 ***Reyes v. Valley Chrome Plating, Inc.*** **is continued to Wednesday, June 26, 2024, at 3:30 p.m. in Department 502**

23CECG00068 ***Wapner v. Thaxter*** **is continued to Wednesday, May 29, 2024, at 3:30 p.m. in Department 502**

(Tentative Rulings begin at the next page)

Tentative Rulings for Department 502

Begin at the next page

(35)

Tentative Ruling

Re: ***Ricardo Regalado Ceja v. General Motors, LLC***
Superior Court Case No. 21CECG02636

Hearing Date: April 24, 2024 (Dept. 502)

Motion: (1) By Plaintiff Ricardo Regalado Ceja for an Award of Attorney Fees
(2) By Defendant General Motors, LLC to Tax Costs

Tentative Ruling:

To grant the motion for an award of attorney fees and award $28,887.83 in fees in favor of plaintiff Rcardo Regalado Ceja.

To grant the motion to tax costs in part, and tax costs in the amount of $166.00.

Explanation:

Fee Award

Plaintiff Ricardo Regalado Ceja ("Plaintiff") seeks an award of attorney fees. Under what statutory authority Plaintiff seeks an award of fees is unclear. The moving papers appear to suggest that the parties stipulated to seek an award of fees and costs under a settlement agreement not in evidence on the present motion. Instead, counsel for Plaintiff submits into evidence 15 irrelevant orders from other cases in other jurisdictions which have no bearing on the present matter and a nearly 600-page consumer report, which also has no relevance. In opposition, Defendant General Motors, LLC ("Defendant") does not appear to contest the representation that the parties agreed to a settlement of full restitution, a partial civil penalty, and that Plaintiff would be entitled to an award of fees and costs thereon. (*See generally* Quezada Decl.; *compare* Liu Decl., ¶ 49.)

It is not this court's practice to presume the statutory basis upon which an award of fees may issue. California law requires express authorization, by statute or contract, for an attorney fee award to a prevailing party. (Code Civ. Proc. § 1021.) With the understanding of the duty of candor owed to the court by attorneys (Rules Prof. Conduct, rule 3.3(a)), and the lack of opposition to the basis upon which Plaintiff seeks an award of fees, which is suggestive of an agreement by the parties, the court proceeds. The fee request is considered in light of the outcome of full restitution with partial civil penalty recovery.

The amount of attorney's fees awarded is a matter within the court's discretion. (*Clayton Development Co. v. Falvey* (1988) 206 Cal.App.3d 438, 447.) In determining the reasonable amount to award, "the court should consider ... 'the nature of the litigation, its difficulty, the amount involved, the skill required and the skill employed in handling the litigation, the attention given, the success of the attorney's efforts, his learning, his age,

and his experience in the particular type of work demanded [citation]; the intricacies and importance of the litigation, the labor and necessity for skilled legal training and ability in trying the cause, and the time consumed.'" (*Ibid*.) An award of costs must be "reasonably necessary to the conduct of the litigation" and per (c)(3), shall be "reasonable" in amount. (Code Civ. Proc. § 1033.5(c)(2).) Plaintiff as the moving party bears the burden to prove the reasonableness of the number of hours devoted to this action. (*Concepcion v. Amscan Holdings, Inc.* (2014) 223 Cal.App.4th 1309, 1325.) A trial court may not rubberstamp a request for attorney fees, and must determine the number of hours reasonably expended. (*Donahue v. Donahue* (2010) 182 Cal.App.4th 259, 271.) A court assessing attorney's fees begins with a touchstone or lodestar figure, based on the 'careful compilation of the time spent and reasonable hourly compensation of each attorney . . . involved in the presentation of the case." (*Serrano v. Priest* (*Serrano III*) (1977) 20 Cal.3d 25, 48.) Lodestar refers to the "number of hours reasonably expended multiplied by the reasonable hourly rate" of an attorney. (*PLCM Group, Inc. v. Drexler* (2000) 22 Cal.4th 1084, 1096.)

Counsel for Plaintiff seeks to set the lodestar at $49,755.35. Counsel submits a total of 115.22 hours of billed time across six timekeepers. As to attorneys, counsel submits hourly rates of $370 to $425 for Matthew Xie, $415 to $490 for Joseph Liu, and $450 to $500 Nancy Zhang. The court finds that some of the hourly rates are high. The reasonable hourly rate is that prevailing in the community for similar work. (*PLCM Group v. Drexler*, *supra*, 22 Cal.4th at p. 1095.) The rate is measured in the market place, and reflects several factors: the level of skill necessary, time limitations, the amount to be obtained in the litigation, the attorney's reputation, and the undesirability of the case. (*Shaffer v. Superior Court* (1995) 33 Cal.App.4th 993, 1002.) However, the court approves the rates as sought, and reviews time entries for congruency with the experience of counsel.

Following a thorough review of the 45 pages of entries, the court finds that many of the entries are purely clerical (*e.g.*, Liu Decl., Ex. 17, p. 11 [calendaring events], 15 [reviewing the e-file system], 26 [emails to schedule deposition], 34 [sending links, confirming attendance of a certified shorthand reporter]), have no discernable purpose (*e.g.*, *id.*, p. 16 [paralegal review of opposition papers with no follow-up work performed]), and in some cases, were entirely premature preparation of pleadings prior to the development of a legal basis (*e.g.*, *id.*, p. 36 [preparing an entire ex parte application before meet-and-confer efforts, which ultimately resulted in a simple stipulation among the parties].) The court does not credit $3,275.00 of the entries that are purely clerical tasks. The court does not credit $2,523.25 for tasks as unreasonably billed or have no discernable purpose. The court does not credit entries by Nancy Zhang, a total of $2,420.00, which have no discernable purpose, and therefore Plaintiff fails to prove were reasonable. The court reduces the $4,000.00 sought in anticipation of briefing and argument on the fee motion to 2 hours' time. At $490 per hour, the court credits $980.00 for opposition and reply. Accordingly, from the $49,755.35 sought, the amount is reduced to $38,517.10.

Defendant further argues that much of the motion work is template work, and should not be awarded full credit as billed. In support, Defendant submits the work it argues is template work prepared by Plaintiff. After review, the court agrees, and further discounts 25 percent from the remaining amount of $38,517.10. The motion for an award of attorney fees is granted in the amount of $28,887.83.

Tax Costs

On January 11, 2024, Plaintiff filed a memorandum of costs. On January 23, 2024, Defendant filed a motion to tax costs. The memorandum of costs seeks $5,010.70 across several categories. Defendant challenges $3,696.65 of the costs sought.

If the items on a verified memorandum of costs appear to be proper charges, the memorandum is prima facie evidence of their propriety and the burden is on the party contesting them to show that they were not reasonable or necessary. (*Hooked Media Group, Inc. v. Apple Inc.* (2020) 55 Cal.App.5th 323, 338.) The losing party does not meet this burden by arguing that the costs were not necessary or reasonable but must present evidence to prove that the costs are not recoverable. (*Litt v. Eisenhower Med. Ctr.* (2015) 237 Cal.App.4th 1217, 1224.) If the claimed items are not expressly allowed by statute and are objected to by a motion to tax costs, the burden of proof is on the party claiming them as costs to show that the charges were reasonable and necessary. (*Foothill-De Anza Community College Dist. v. Emerich* (2007) 158 Cal.App.4th 11, 29.)

First, Defendant argues that jury fees are not recoverable. Jury fees are recoverable. (Code Civ. Proc. § 1033.5, subd. (a)(1).) Though Defendant argues that the deposit is not a jury fee, Defendant is mistaken. The language of the statute identifies the $150.00 deposit as a nonrefundable fee. (Code Civ. Proc. § 631, subd. (b).) It is a jury fee, subject to recovery on costs. The motion to tax costs as to the jury fee is denied.

Next, Defendant challenges court reporter fees on depositions of non-party employees and costs associated thereon. Deposition costs are allowed. (Code Civ. Proc. § 1033.5, subd. (a)(3).) Accordingly, the items which appear on Plaintiff's verified memorandum of costs are prima facie evidence of their propriety. The burden falls to Defendant to demonstrate otherwise. Defendant fails its burden to show why these depositions were not reasonable, or that the costs associated thereon were not reasonably incurred. (*See generally* Quezada Decl.) The motion to tax costs as to the deposition costs is denied.

Finally, Defendant challenges the seeking of CourtCall costs. Telephonic costs are specifically disallowed. (Code Civ. Proc. § 1033.5, subd. (b)(3); *see also id.*, § 367.6 [repealed 2022].) Plaintiff in opposition relies on a 2018 case, which was decided at a time where Code of Civil Procedure section 367.6 existed, and predated the repeal thereof. The existence and repeal of Code of Civil Procedure section 367.6 demonstrates the Legislature's knowledge and consideration that CourtCall was not previously covered by Code of Civil Procedure section 1033.5. The motion to tax costs as to the CourtCall fees is granted. Costs in the amount of $166.00 is taxed.

Pursuant to California Rules of Court, rule 3.1312(a), and Code of Civil Procedure section 1019.5, subdivision (a), no further written order is necessary. The minute order adopting this tentative ruling will serve as the order of the court and service by the clerk will constitute notice of the order.

Tentative Ruling
Issued By: KCK on 04/22/24.
(Judge's initials) (Date)

(37)

Tentative Ruling

Re: ***Bed Bath & Beyond v. California Franchise Tax Board***
Superior Court Case No. 22CECG02165

Hearing Date: April 24, 2024 (Dept. 502)

Motion: By Defendant California Franchise Tax Board to Dismiss

Tentative Ruling:

To grant defendant California Franchise Tax Board's motion to dismiss the unrepresented corporation plaintiff, Bed Bath & Beyond. Defendant is directed to submit to this court, within 7 days of service of the minute order, a proposed judgment dismissing this action.

Explanation:

Corporations may not represent themselves before the court in *propria persona*, nor can corporations represent themselves through their officers, directors, or any other employee who is not an attorney. (*CLD Construction, Inc. v. City of San Ramon* (2004) 120 Cal.App.4th 1141, 1145.) Corporations must be represented by an appropriately licensed attorney in court proceedings. (*CLD Construction, Inc. v. City of San Ramon*, *supra*, 120 Cal.App.4th 1141, 1145.) The only exception to this rule would be for small claims matters. (*Gamet v. Blanchard* (2001) 91 Cal.App.4th 1276, fn. 5; *Van Gundy v. Camelot Resorts, Inc.* (1983) 152 Cal.App.3d Supp. 29, 30.) The prohibition against corporations appearing in *propria persona* is because a corporation is an artificial entity that can only act through natural persons. (*CLD Construction, Inc. v. City of San Ramon*, *supra*, 120 Cal.App.4th 1141, 1146.) If the corporation's representative is not an attorney, that person would be engaged in the unlicensed practice of law. (*Ibid*.)

The prohibition on corporations representing themselves does not prevent the court from granting motions to be relieved as counsel, even where it leaves the corporation unrepresented. (*Gamet v. Blanchard, supra*, 91 Cal.App.4th 1276, fn. 5; *Thomas G. Ferruzzo, Inc. v. Superior Court* (1980) 104 Cal.App.3d 501, 504.) The corporation must obtain new counsel or potentially risk forfeiting rights. (*Thomas G. Ferruzzo, Inc. v. Superior Court*, *supra*, 104 Cal.App.3d 501, 504.) The court may prevent an unlicensed person from appearing in a court proceeding. (*Van Gundy v. Camelot Resorts, Inc., supra*, 152 Cal.App.3d Supp. 29, 31.)

Here, the court appropriately granted former counsels' request to withdraw from representation of the plaintiff corporation. Former counsel followed the court's direction regarding proof of service of the court's orders granting the motion to be relieved. (See Proof of Service filed January 11, 2024.) The orders included the warning to the corporation that it would need to obtain counsel. Former counsel has been effectively relieved as counsel since January 11, 2024. The plaintiff corporation is responsible to

obtain counsel. Nothing has been filed indicating that counsel has since been obtained. As such, the court grants defendant's motion to dismiss.

Pursuant to California Rules of Court, rule 3.1312(a), and Code of Civil Procedure section 1019.5, subdivision (a), no further written order is necessary. The minute order adopting this tentative ruling will serve as the order of the court and service by the clerk will constitute notice of the order.

Tentative Ruling
Issued By: KCK on 04/23/24.
(Judge's initials) (Date)

(27)

Tentative Ruling

Re: ***James Briscoe v. Veer Hospitality, LLC***
Superior Court Case No. 22CECG00066
Daunte Hall v. Veer Hospitality, LLC
Superior Court Case No. 22CECG00358
John Ingram, Jr. v. Rasna, LLC
Superior Court Case No. 22CECG02182
Allstate Northbrook Indemnity Company v. Motel 6
Superior Court Case No. 23CECL01258

Hearing Date: April 24, 2024 (Dept. 502)

Motion: By Defendant Veer Hospitality, LLC to Consolidate

Tentative Ruling:

To grant the motion to consolidate. (Code Civ. Proc., § 1048.) A copy of this order shall be filed in each case. *James Broscoe v. Veer Hospitality, LLC*, Superior Court Case No. 22CECG00066 is designated as the lead case.

The consolidated cases are deemed Complex. The consolidated cases will be subject to a Case Management Plan/Order to be jointly drafted and submitted by all counsel of record in the consolidated matters.

Explanation:

The subject cases arise from the same nucleus of operative facts and thus are amenable to consolidation. (See *McClure v. Donovan* (1949) 33 Cal.2d 717, 722 [Consolidation promotes convenience by avoiding duplicative procedures, particularly in proving issues common to both actions.]; Code Civ. Proc., § 1048, subd. (a).) Although, counsel for James Briscoe has filed a "limited opposition," contending the dispute is not complex, the sheer number of cases, spanning both civil limited and civil unlimited subject matter, tends to demonstrate a need for complex case management. (*Lu v. Superior Court* (1997) 55 Cal.App.4th 1264, 1267-1268.)

Pursuant to California Rules of Court, rule 3.1312(a), and Code of Civil Procedure section 1019.5, subdivision (a), no further written order is necessary. The minute order adopting this tentative ruling will serve as the order of the court and service by the clerk will constitute notice of the order.

Tentative Ruling
Issued By: KCK on 04/23/24.
(Judge's initials) (Date)

(27)

Tentative Ruling

Re: ***Nicholas Mares v. Amazon Logistics, Inc./Complex/Class Action***
Superior Court Case No. 22CECG03995

Hearing Date: April 24, 2024 (Dept. 502)

Motion (3x): by Plaintiff to Compel Further Responses to Discovery

Tentative Ruling:

To deny.

Explanation:

Jurisdiction to Consider Merits

Although "[t]he parties to a discovery dispute may stipulate to enlarge the time in which a motion to compel further responses must be filed[]" (*Lincolnshire Condominium, Ltd. v. Superior Court* (1984) 158 Cal.App.3d 524, 526), the expiration of the time period is considered "'jurisdictional' in the sense that it renders the court without authority to rule on motions to compel other than to deny them." (*Sexton v. Superior Court* (1997) 58 Cal.App.4th 1403, 1410 (*Sexton*) [referring to the 45-day statutory time limit]; see also *Vidal Sassoon Inc. v. Superior Court* (1983) 147 Cal.App.3d 681, 684 (*Sassoon*); *Standon Co. v. Superior Court* (1990) 225 Cal.App.3d 898, 904.)

Plaintiff contends that the court's January 18, 2024 stipulation and order (drafted by plaintiff's counsel), coupled with the parties' stipulation, created an "indisputably ambiguous" deadline (Replies at p. 3:9), and requests the court "overlook" the filing defect under discretion applicable in summary judgment proceedings. (*Id*. at p. 3:1-6.) However, the case relied upon by plaintiff (*Gonzalez v. Superior Court* (2017) 9 Cal.App.5th 162, 168) is inapposite because it did not involve a discovery dispute and did not address the abundance of authority holding that the court is without authority to rule on untimely motions to compel. *Sexton, supra*, 58 Cal.App.4th at p. 1401; see also *Sassoon, supra*, 147 Cal.App.3d at p. 684.)

Federal Arbitration Act Exemption Discovery

Plaintiff focuses each motion on his insistence that he is exempt from application of the Federal Arbitration Act. In particular, he construes his employment as materially similar to that of the cargo loader and ramp supervisor in *Southwest Airlines Co. v. Saxon* (2022) 596 U.S. 450 and the warehouse worker in *Ortiz v. Randstad Inhouse Services* (9th Cir. 2022) 95 F.4th 1152. However, neither of these cases involved a discovery dispute, nor did they turn on information solely obtained through discovery responses. Particularly, the United States Supreme Court in *Saxon* relied exclusively on the plaintiff's own declaration supplemented by publically obtainable information. (*Saxon, supra*, 596 U.S.

at pp. 1787-1789 [citing an online source for the Dept. of Transp., Bureau of Trasp. Statistics archived at www.supremecourt.gov].)

Response Sufficiency

Plaintiff's motions seek relief on the basis that the responses were "evasive and incomplete," and the objections "meritless." (See Notice of Motion(s).) Discovery requests are generally afforded liberal construction (see Code of Civ. Proc., § 2017.010; *Williams v. Superior Court* (2017) 3 Cal.5th 531, 541), and a propounding party of interrogatories may move for an order compelling a further response if it deems that "[a]n answer to a particular interrogatory is evasive or incomplete." (Code Civ. Proc., § 2030.300, subd. (a)(1).)

In addition, a motion seeking further responses to a request for further production of documents "shall set forth specific facts showing good cause justifying the discovery sought by the demand." (Code Civ. Proc., § 2031.310 subd. (b)(1); *Calcor Space Facility, Inc. v. Superior Court* (1997) 53 Cal.App.4th 216, 223.) Good cause is established by identification of a disputed and consequential fact and how the discovery will tend to prove or disprove that fact. (See *Digital Music News LLC v. Superior Court* (2014) 226 Cal.App.4th 216, 224, disapproved on another ground by *Williams, supra*, 3 Cal.5th at p. 557, fn. 8.) Once good cause is shown, the burden shifts to the opposing party to justify their objections. (*Kirkland v. Superior Court* (2002) 95 Cal.App.4th 92, 98.)

Plaintiff frames all three of his motions around his position that "he is exempt from application of the Federal Arbitration Act." (Points & Auth. ["FAA Exemption"][1].) However, as discussed above, that inquiry does not necessarily turn on information only available through discovery, and neither plaintiff's separate statements nor his reply/moving papers identify withheld information crucial toward establishing a basis for exemption. In other words, plaintiff's motions do not show that the responses were evasive or incomplete (especially regarding the motion to compel production which requires a showing of good cause) in the context of exemption.

Similarly, although he contends "a wide array of facts" are needed for his unconscionability defense, plaintiff does not specify which interrogatories and documents are critical to his opposition to arbitration. Furthermore, although plaintiff contends he "is entitled to determine who is claiming a right to enforce the purported arbitration against her [*sic*]," plaintiff nonetheless acknowledges that Defendant Amazon Logistics, Inc. has joined Last Piece Logistics, LLC's motion to compel arbitration, i.e., the joinder clarifies the uncertainty.

Finally, the responses to the requests for admissions all include the statutorily authorized responses of admit, deny, or that sufficient information or knowledge is lacking. (Code Civ. Proc., § 2033.220, subd. (b).) Therefore, the request for further response is denied.

[1] Not all of plaintiff's briefing includes page numbers as required pursuant to rule 2.109 of the California Rules of Court. Consequently, this quotation cites to plaintiff's section title.

Pursuant to California Rules of Court, rule 3.1312(a), and Code of Civil Procedure section 1019.5, subdivision (a), no further written order is necessary. The minute order adopting this tentative ruling will serve as the order of the court and service by the clerk will constitute notice of the order.

Tentative Ruling
Issued By: KCK on 04/23/24.
(Judge's initials) (Date)

(36)

Tentative Ruling

Re: ***Xiong, et al. v. General Motors, LLC***
Superior Court Case No. 23CECG00845

Hearing Date: April 24, 2024 (Dept. 502)

Motions: Defendant's Demurrer and Motion to Strike Portions of the First Amended Complaint

Tentative Ruling:

To continue the demurrer and motion to strike to Thursday, May 23, 2024, at 3:30 p.m., in Department 502, in order to allow the parties to meet and confer *in person or by telephone*, as required. If this resolves the issues, defense counsel shall call the court to take the motions off calendar. If it does not resolve the issues, defense counsel shall file a declaration, on or before Thursday, May 16, 2024, at 5:00 p.m., stating the efforts made.

Explanation:

Defendant did not satisfy the requirement to meet and confer prior to filing the demurrer and motion to strike. Code of Civil Procedure, sections 430.41 and 435.5 make it very clear that meet and confer must be conducted in person or by telephone prior to filing a demurrer and/or motion to strike. The moving party is not excused from this requirement unless they show that the plaintiff failed to respond to the meet and confer request or otherwise failed to meet and confer in good faith. (Code Civ. Proc., §§ 430.41, subd. (a)(3)(B) [demurrer]; 435.5, subd. (a)(3)(B) [motion to strike].) The evidence did not show a bad faith refusal to meet and confer on plaintiff's part that would excuse defendant from complying with the statute.

The parties must engage in good faith meet and confer, in person or by telephone, as set forth in the statutes. The court's normal practice in such instances is to take the motions off calendar, subject to being re-calendared once the parties have met and conferred. However, given the extreme congestion in the court's calendar currently, the court will instead continue the hearing to allow the parties to meet and confer, and only if efforts are unsuccessful will it rule on the merits.

Pursuant to California Rules of Court, rule 3.1312(a), and Code of Civil Procedure section 1019.5, subdivision (a), no further written order is necessary. The minute order adopting this tentative ruling will serve as the order of the court and service by the clerk will constitute notice of the order.

Tentative Ruling
Issued By: KCK on 04/23/24.
(Judge's initials) (Date)

(34)

Tentative Ruling

Re: ***Gerald Molinari v. Manco Abbott, Inc., et al.***
Superior Court Case No. 20CECG01745

Hearing Date: April 24, 2024 (Dept. 502)

Motion: (1) by Element Security Solutions, Inc. to Bifurcate Trial
(2) by Lazy Dog Restaurants, LLC to Bifurcate Trial

Tentative Ruling:

To grant Element Security Solutions, Inc.'s motion to bifurcate the trial on the issue of liability from the issue of damages. The requested 90 days between the two phases of the trial is denied.

To deny, without prejudice, Lazy Dog Restaurants, LLC's motion to bifurcate the contractual interpretation causes of action within the cross-complaints filed by Element Security Solutions, Inc. and Manco Abbott, Inc. from the issues of liability and damages.

Explanation:

Under Code of Civil Procedure section 598, court is given great discretion in regard to the order of issues at trial:

> The court may, when the convenience of witnesses, the ends of justice, or the economy and efficiency of handling the litigation would be promoted thereby, on motion of a party, after notice and hearing, make an order…that the trial of any issue or any part thereof shall precede the trial of any other issue or any part thereof in the case….

Similarly, Code of Civil Procedure section 1048, subdivision (b), specifies the court's discretion in regard to bifurcating issues for separate trial:

> The court, in furtherance of convenience or to avoid prejudice, or when separate trials will be conducive to expedition and economy, may order a separate trial of any cause of action … or of any separate issue or of any number of causes of action or issues.

The decision to grant or deny a motion to bifurcate issues, and/or to have separate trials, lies within the court's sound discretion. (See *Grappo v. Coventry Financial Corp*. (1991) 235 Cal.App.3d 496, 503-504.)

There are two motions to bifurcate the trial at bench. The first, brought by Element Security Solutions, Inc., seeks to bifurcate the issue of liability from the issue of damages. All parties have stipulated to the bifurcation of liability and damages with at least 90 days between the trial of the two issues. Based on the information provided, the court intends to grant the motion and to bifurcate the trial of the issue of liability from the issue of

damages. However, the requested 90 days between the two phases of trial do not appear to promote judicial economy or efficiency. The requested 90 days between the trial of the two issues is denied.

The second motion to bifurcate from Lazy Dog Restaurants, LLC and LDR Holdings, LLC (Lazy Dog Defendants), seeks to bifurcate issues of contractual interpretation within the cross-complaints filed by defendants Element Security Solutions, Inc. and Manco Abbott, Inc. from the issues of liability and damages. The moving papers argue a bench trial on the specific causes of action related to competing contracts requiring each defendant to indemnify the other will encourage settlement and promote judicial economy. Element Security Solutions, Inc. opposes the motion, arguing the resolution of contractual issues by bench trial is not more efficient and will still require the resolution of the issues of allocation of liability.

Based on the information and evidence presented, the court does not intend to grant the motion to bifurcate the contractual interpretation issues at this time. Given the possibility of any given defendant being allocated no liability, possibly mooting the contractual interpretation issues, bifurcation does not appear to promote judicial economy and efficiency. The motion to bifurcate the contractual issues is denied without prejudice.

Pursuant to California Rules of Court, rule 3.1312(a), and Code of Civil Procedure section 1019.5, subdivision (a), no further written order is necessary. The minute order adopting this tentative ruling will serve as the order of the court and service by the clerk will constitute notice of the order.

Tentative Ruling
Issued By: KCK on 04/23/24.
(Judge's initials) (Date)