Tentative Rulings for September 3, 2025
Department 503

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.***

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

(Tentative Rulings begin at the next page)

Tentative Rulings for Department 503

Begin at the next page

(03)

Tentative Ruling

Re: ***Killian v. Jawad Co., dba Own-A-Car Fresno***
Case No. 25CECG01273

Hearing Date: September 3, 2025 (Dept. 503)

Motion: Defendant Jawad Co.'s Petition to Compel Arbitration and Request for Stay

Tentative Ruling:

To deny defendant's petition to compel arbitration and request to stay the court action.

Explanation:

Pursuant to California Code of Civil Procedure section 1281.2, "On petition of a party to an arbitration agreement alleging the existence of a written agreement to arbitrate a controversy and that a party thereto refuses to arbitrate such controversy, the court shall order the petitioner and the respondent to arbitrate the controversy if it determines that an agreement to arbitrate the controversy exists, unless it determines that: (a) The right to compel arbitration has been waived by the petitioner; or (b) Grounds exist for the revocation of the agreement. (c) A party to the arbitration agreement is also a party to a pending court action or special proceeding with a third party, arising out of the same transaction or series of related transactions and there is a possibility of conflicting rulings on a common issue of law or fact." (Cal. Civ. Proc. Code § 1281.2, subds. (a)-(c), paragraph breaks omitted.)

"[W]hen a petition to compel arbitration is filed and accompanied by prima facie evidence of a written agreement to arbitrate the controversy, the court itself must determine whether the agreement exists and, if any defense to its enforcement is raised, whether it is enforceable. Because the existence of the agreement is a statutory prerequisite to granting the petition, the petitioner bears the burden of proving its existence by a preponderance of the evidence. If the party opposing the petition raises a defense to enforcement - either fraud in the execution voiding the agreement, or a statutory defense of waiver or revocation (see § 1281.2, subds. (a), (b)) - that party bears the burden of producing evidence of, and proving by a preponderance of the evidence, any fact necessary to the defense." (*Rosenthal v. Great Western Fin. Securities Corp*. (1996)14 Cal. 4th 394, 413.) Thus, in ruling on a motion to compel arbitration, the court must first determine whether the parties actually agreed to arbitrate the dispute, and general principles of California contract law guide the court in making this determination. (*Mendez v. Mid-Wilshire Health Care Center* (2013) 220 Cal.App.4th 534.)

In the present case, defendant has met its burden of showing that there was an agreement to arbitrate the dispute. According to defendant's evidence, plaintiff signed the arbitration agreement when she entered into the purchase agreement for the subject vehicle on November 15, 2023. (Jawad decl., ¶¶ 5-9, and Exhibit A thereto.) The

agreement provides that the parties agree that, "either you or we may choose to have any dispute between you and us decided by arbitration and not in court or by jury trial." (Exhibit A, "Arbitration Provision", ¶ 1, capitalization omitted.) The agreement also states that "Any claim or dispute, whether in contract, tort, statute, or otherwise… between you and us… which arises out of or relates to your credit application, purchase or condition of this Vehicle, this contract or any resulting transaction or relationship… shall, at your or our election, be resolved by neutral, binding arbitration and not be court action." (*Ibid*.)

Thus, the evidence shows that plaintiff entered into an agreement to arbitrate the types of claims that plaintiff has alleged in her complaint, which all arise out of the purchase, condition, and repair of the subject vehicle. Plaintiff also does not dispute that she signed the agreement, or that the agreement covers her claims. As a result, defendant has met its burden of showing that the parties entered into an agreement to arbitrate any disputes regarding the subject vehicle, including all of the claims alleged by plaintiff in the present lawsuit. Consequently, the burden shifts to plaintiff to show that a defense exists to the agreement.

In opposition to the petition to compel arbitration, plaintiff alleges that, after the execution of the original sales agreement, the parties entered into a new agreement to resolve their dispute regarding the condition and repair of the subject vehicle. (Killian decl., ¶ 5, and Exhibit A thereto.) Plaintiff alleges that defendant promised to repair the damage to the vehicle if she gave them her insurance check and executed the release agreement. (Killian decl. at ¶ 5.) She believed their promise and gave them the insurance check, as well as signing the release. (*Ibid*.) Thus, she argues that defendant waived its right to compel arbitration when it executed the new release agreement.

As a result, plaintiff has met her burden of presenting evidence showing that defendant waived its right to compel plaintiff to arbitrate her claims regarding the subject car, as the release agreement clearly states that it supersedes any prior agreements or understandings regarding the sale or condition of the subject car, and the release agreement contains no arbitration provisions. (Exhibit A to Killian decl., ¶ 6.) The release agreement supersedes and replaces the parties' prior agreement, which required the parties to arbitrate their disputes, with a new agreement containing different provisions to resolve their dispute over the repair of the car.

Under Code of Civil Procedure section 1281.2, the court shall enforce an arbitration agreement, unless it finds that the petitioner waived the right to arbitrate the dispute. (Code Civ. Proc., § 1281.2, subd. (a).) Also, the issue of whether the moving party waived the right to compel arbitration must be resolved by the trial court when ruling on the petition to compel arbitration. (*Ibid*, see also *Gustafson v. State Farm Mut. Auto. Ins. Co.* (1973) 31 Cal.App.3d 361, 365.)

"In affirming the trial court's decision in *Copeland*, the court stated: 'In a proceeding seeking to enforce an arbitration agreement, section 1281.2 of the Code of Civil Procedure specifically provides for a court determination of the question of whether arbitration has been waived by a party otherwise entitled. ... [¶] As the court succinctly put it in the recent case of *Sawday v. Vista Irrigation Dist*. ..., "A party to an arbitration agreement can waive his right to arbitrate." "Waiver is the intentional relinquishment of a known right after knowledge of the facts." A release is defined as "The relinquishment, concession, or giving up of a right, claim, or privilege, by the person in whom it exists or to whom it accrues, to the person against whom it might have been demanded or

enforced." It is thus evident that the legal effect of a release is also the relinquishment of rights; in this sense a release is clearly a waiver. Consequently, if the release was valid, defendants have waived their rights to arbitration. Section 1281.2 makes it clear this issue was for the court to decide.'" (*Gustafson v. State Farm Mut. Auto. Ins. Co.* (1973) 31 Cal.App.3d 361, 365, citations omitted.)

"Code of Civil Procedure section 1281.2 and the cases cited above make it clear (1) that waiver of the right to compel arbitration is a preliminary question which should be decided by the trial court considering a petition to compel arbitration, and (2) that a valid release signed by an insured constitutes a waiver of the right to compel arbitration." (*Ibid* [holding trial court erred in failing to determine whether release signed by appellant insured constituted waiver of her right to compel arbitration].)

Here, the plaintiff's evidence shows that she entered into the release agreement with defendant after she signed the original purchase agreement, that the release agreement supersedes and replaces the terms of the original agreement, and that the release agreement does not contain an arbitration provision. Defendant drafted the release agreement, so it cannot claim that it was unaware of its terms or that it did not intend to waive the prior agreement's arbitration clause. Therefore, the court intends to find that defendant has waived its right to enforce the arbitration clause in the first agreement, and it will deny the motion to compel arbitration of plaintiff's claims. In addition, the court intends to deny the defendant's motion to stay the pending court action.

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: JS on 8/25/2025.
(Judge's initials) (Date)

(35)

Tentative Ruling

Re: ***Brar v. Shehadey et al.***
Superior Court Case No. 19CECG03524

Hearing Date: September 3, 2025 (Dept. 503)

Motion: By Plaintiff Gurdeep Brar to Enforce Settlement

Tentative Ruling:

To deny.

Explanation:

Plaintiff Gurdeep Brar ("Plaintiff") seeks to enforce a settlement entered with defendants James Lawrence Shehadey and Red Triangle Oil Company (together "Defendants") under Code of Civil Procedure section 664.6.

Code of Civil Procedure section 664.6 provides as follows:

> If parties to pending litigation stipulate, in a writing signed by the parties outside of the presence of the court or orally before the court, for settlement of the case, or part thereof, the court, upon motion, may enter judgment pursuant to the terms of the settlement. (Code Civ. Proc. § 664.6, subd. (a).)

Due to the summary nature of the statute authorizing judgment to enforce a settlement agreement, strict compliance with its requirements is prerequisite to invoking the power of the court to impose a settlement agreement. (*J.B.B. Investment Partners, Ltd. v. Fair* (2014) 232 Cal.App.4th 974, 984.)

Here, Plaintiff submits a writing signed only by Plaintiff, and otherwise relies on statements through emails that a settlement had been reached. (Nunez Decl., Ex. 3.) Accordingly, Plaintiff fails to demonstrate a writing signed by the parties to enforce a purported agreement between the parties to settle the matter under Code of Civil Procedure section 664.6. The motion is denied.

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: JS on 8/29/2025.
(Judge's initials) (Date)

(46)

Tentative Ruling

Re: ***Martha Pankratz v. Olive and Fulton, LLC***
Superior Court Case No. 24CECG01794

Hearing Date: September 3, 2025 (Dept. 503)

Motion: by Defendant Bank of America, NA for Protective Order

Tentative Ruling:

To deny.

Explanation:

Defendant Bank of America, NA ("defendant" or "Bank of America") moves for a protective order that the surveillance video in defendant's possession not be produced absent a suitable protective order, and that plaintiff Martha Pankratz's ("plaintiff") Requests for Productions of Documents, Set One, Nos. 1-2, 5-6, 16, 20, 24 nor Special Interrogatories, Set One, Nos. 7 through 11 need not be answered further.

Defendant Effectively Waived the Untimeliness of Plaintiff's Motion

"It is well settled that the appearance of a party at the hearing of a motion and his or her opposition to the motion on its merits is a waiver of any defects or irregularities in the notice of motion. (*Alliance Bank v. Murray* (1984) 161 Cal.App.3d 1, 7, quoting *Lacey v. Bertone* (1949) 33 Cal.2d 649, 651; *Carlton v. Quint* (2000) 77 Cal.App.4th 690, 697.) If the opposing party appears at all, they should limit their argument to objections based on the defective notice. Otherwise, the court will treat their opposition on the merits as a waiver of the defects. (*Ibid*.) This may apply to a reply to an untimely opposition.

Plaintiff's opposition was untimely filed on August 25, 2025. However, defendant replied to the opposition on its merits. Any untimeliness in the service[1] of the opposition to the motion is therefore waived.

Legal Standard

The party to whom interrogatories are directed or from whom a request for production has been made may promptly move for a protective order. (Code Civ. Proc., §§ 2030.090 subd. (a), 2031.060 subd. (a).) The court, upon a showing of good cause, may make any order that justice requires to protect a party or other natural person from "unwarranted annoyance, embarrassment, or oppression, or undue burden and expense." (Code Civ. Proc., §§ 2030.090 subd. (b), 2031.060 subd. (b).) The burden of

[1] Defendant contends that the proof of service for the opposition was unsigned, but the proofs of service before the court for the plaintiff's opposition and supporting declaration reflect the signature of Estephani A. Rodriguez, signed on August 25, 2025.

proof to show "good cause" is on the party seeking the protective order. (*Fairmont Ins. Co. v. Superior Court* (2000) 22 Cal.4th 245, 255 [interrogatories], *Stadish v. Superior Court* (1999) 71 Cal.App.4th 1130, 1145 [production of documents].)

The concept of "good cause" requires a showing of specific facts demonstrating unwarranted annoyance, embarrassment, or oppression, or undue burden and expense, justifying the relief sought. (See *Goodman v. Citizens Life & Cas. Ins. Co.* (1967) 253 Cal.App.2d 807, 819.) The facts are established in declarations on behalf of the party seeking the protective order. These declarations must contain admissible evidence (or first-hand knowledge of the facts). Hearsay allegations or those made "on information and belief" do not suffice, nor do conclusory statements that particular relief is "necessary." (*Id*., at p. 820.)

Protective orders may be sought to prevent disclosure of documents containing confidential commercial information, such as trade secrets. (Code Civ. Proc., § 2031.060 subd. (b)(5).)

Application

It is defendant's burden as the moving party to demonstrate that there is good cause, and defendant did not demonstrate good cause for granting a protective order.

Privacy

Defendant did not establish that the customers of the bank have a privacy interest to be protected. Even assuming that they do, defendant did not establish that providing plaintiff with the surveillance footage would excessively infringe on their right to privacy. Defendant suggests that the bank's customers have a high expectation of privacy, but this is not backed up by any evidence. Defendant asserts that the subject incident, plaintiff's trip-and-fall, occurred "over a portion of the sidewalk outside the entrance to a walk-up ATM vestibule" on defendant's premises. (Motion, 3:3-4.) This is arguably a public area. Even if a banking customer expects his or her personal banking information to be private, one approaches a walk-up ATM with the knowledge or presumption that he or she will be publically exposed to some degree. Defendant has not established a protectable privacy interest to support a showing of good cause.

Confidential Commercial Information

Defendant did not provide any declarations establishing that the information to be protected (i.e. the video surveillance footage) is confidential commercial information, or information with an otherwise protectable interest. Specific facts established by admissible evidence is required for a showing of good cause.

The cases raised by defendant are distinguishable from the present case. *Fireman's Fund Ins. Co. v. Superior Court* (1991) 233 Cal.App.3d 1138 supports protection of sensitive commercial information, but the commercial information at issue are reinsurance documents and communications, and they were objected to as not relevant. Commercial sensitivity was not even raised as a grounds for protection, but implied in an assertion of attorney-client and work product protection. (*Fireman's Find*,

supra, at pp. 1140, 1141 fn. 1.) In *Williams v. Superior Court* (2017) 3 Cal.5th 531, an interrogatory seeking employee contact information is objected to as unduly burdensome, which here is neither the information sought to be protected nor the basis of objection.

In *Nativi v. Deutsche Bank National Trust Co.* (2014) 223 Cal.App.4th 261, the party propounding discovery requested company policies, procedures, and practices, and was objected to as confidential proprietary information. (*Nativi*, *supra*, at pp. 313-314.) While closer in nature to the present case where "proprietary" information was raised as an objection, it does not support a finding that a protective order here should be granted. In fact, in *Nativi*, it was determined that the party objecting to the discovery "made no factual showing that […] the documents that it had been ordered to produce contained confidential commercial information or information in which it had any protectable interest[.]" (*Id.*, at p. 318.)

As in *Nativi*, defendant has not made a factual showing that the video surveillance contains confidential commercial information. Not only has defendant failed to provide supporting evidentiary declarations, defendant has not attempted to argue how the video is confidential commercial information other than to speculate revealing the locations and angles of the cameras may benefit "potential wrongdoers." (Motion, 8:12.) Defendant does not mention whether the cameras are visible from the sidewalk or otherwise noticeable from observation. If, for instance, they are openly placed, then their visual scope may be easily assumed or ascertained by any passersby and would not be akin to confidential. Defendant has not supported its position with specific facts established by admissible evidence is required for a showing of good cause.

The motion for protective order of the video surveillance footage is therefore denied.

Trade Secret

The opposition focuses on defendant's failure to establish the video surveillance footage as a trade secret. However, the defendant does not identify "trade secrets" as a basis for the motion, and defendant makes no arguments for such a categorization in its motion or reply. The court will not address whether the video is a protected trade secret, as defendant did not make this argument.

Request for Production, Set One, and Special Interrogatories, Set One

The bank's argument for protective order of its responses to the propounded request for production and interrogatories is that once the video is marked as confidential, defendant will provide the surveillance video and further responses will be unnecessary and unwarranted. As the court is not granting the protective order for the video, this contingency precluding the need for further responses is not met and the position is unsupported; therefore, the motion for protective orders on these responses is denied.

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: JS on 8/29/2025.
(Judge's initials) (Date)

(37)

Tentative Ruling

Re: ***Johanna Romo v. Premium Urgent Care, Inc.***
Superior Court Case No. 24CECG05023

Hearing Date: September 3, 2025 (Dept. 503)

Motion: By Defendant to Compel Arbitration and Stay the Proceedings

Tentative Ruling:

To grant the motion to compel arbitration and stay the proceedings pending arbitration.

Explanation:

A trial court is required to grant a motion to compel arbitration "if it determines that an agreement to arbitrate the controversy exists." (Code Civ. Proc., § 1281.2.) However, there is "no public policy in favor of forcing arbitration of issues the parties have not agreed to arbitrate." (*Garlach v. Sports Club Co.* (2012) 209 Cal.App.4th 1497, 1505) "Thus, in ruling on a motion to compel arbitration, the court must first determine whether the parties actually agreed to arbitrate the dispute." (*Mendez v. Mid-Wilshire Health Care Center* (2013) 220 Cal.App.4th 534, 541.)

The party moving to compel arbitration bears the burden of proving by a preponderance of the evidence the existence of an arbitration agreement. (*Fleming v. Oliphant Financial, LLC* (2023) 88 Cal.App.5th 13, 18; *Lane v. Francis Capital Management* LLC (2014) 224 Cal.App.4th 676, 683.) In order to determine whether an arbitration agreement exists, the court may need to assess the parties to any such agreement. (*Melchor Investment Co. v. Rolm Systems* (1992) 3 Cal.App.4th 587, 592.) After the moving party establishes the existence of an arbitration agreement between the parties, then the burden shifts to the opposing party to show that the agreement is otherwise unenforceable. (*Condee v. Longwood Management Corp.* (2001) 88 Cal.App.4th 215, 219.)

Here, Plaintiff has not challenged the existence of the arbitration agreement or her signature on such. Plaintiff claims that Defendant waived the agreement to arbitrate and that the agreement in unconscionable.

Waiver

Arbitration can be waived by a party acting inconsistently with an agreement to arbitrate. (*Sobremonte v. Superior Court* (1998) 61 Cal.App.4th 980, 991-992.) Courts can consider 1) whether the party's actions are inconsistent with that right, 2) how far along the parties are in litigation before notice of an intent to arbitrate, 3) any delays in seeking arbitration, 4) whether the party seeking arbitration has filed a counterclaim, and 5)

whether important intervening steps have occurred. (*St. Agnes Medical Center v. PacifiCare of California, supra*, 31 Cal.4th at p. 1196.)

Here, Plaintiff argues that Defendant has acted inconsistently with an intent to arbitrate because it delayed in selecting an arbitrator for half a year. This argument is not compelling. First, there is a discrepancy as to the history of the parties' attempts to determine who would serve as arbitrator. Plaintiff's counsel declares there was a period of silence between February 12, 2025, when he sent a proposed list of potential arbitrators and the filing of the motion to compel arbitration on April 17, 2025. (Elkin Decl., ¶¶ 4-5.) Defense counsel declares that during a telephone call with Plaintiff's counsel on March 18, 2025, Plaintiff's counsel stated he would not sign a stipulation to arbitrate unless Defendant agreed to one of his proposed arbitrators. (Green Decl., ¶ 5.) Second, even if the Court were to accept Plaintiff's counsel's declaration as the definitive history of the parties' discussions regarding arbitration, this would have only amounted to a delay of four months between the initial contact regarding arbitration and filing of the motion, not half a year. (Elkin Decl., ¶¶ 2-5.) The Court finds that Defendant has not waived any right to arbitration.

Unconscionability

A contract is unconscionable if one of the parties lacks "meaningful choice in deciding whether to agree and the contract contains terms that are unreasonably favorable to the other party." (*Ramirez v. Charter Communications* (2024) 16 Cal.5th 478, 492.) The doctrine of unconscionability has " 'both a "procedural" and a "substantive" element,' the former focusing on ' "oppression" ' or ' "surprise" ' due to unequal bargaining power, the latter on ' "overly harsh" ' or ' "one-sided" ' results." (*Armendariz v. Foundation Health Psychcare Services* (2000) 24 Cal.4th 83, 114.) To invalidate an arbitration agreement, the court must find both procedural and substantive unconscionability. (*Id*. at p. 122; *Stirlen v. Supercuts, Inc*. (1997) 51 Cal.App.4th 1519, 1533; *Mercuro v. Superior Court* (2002) 96 Cal.App.4th 167, 174.)

Procedural unconscionability has to do with the manner in which the contract was negotiated and the parties' circumstances at that time, and focuses on the factors of oppression or surprise. (*Kinney v. United HealthCare Services, Inc.* (1999) 70 Cal.App.4th 1322, 1327; *Martinez v. Master Protection Corp.* (2004) 118 Cal.App.4th 107, 113.) Oppression "arises from an inequality of bargaining power of the parties to the contract and an absence of real negotiation or a meaningful choice on the part of the weaker party." (*Kinney v. United HealthCare Services, Inc.* (1999) 70 Cal.App.4th 1322, 1329.) "Surprise" involves the extent to which the supposedly agreed-upon terms are buried in an overly complex form; it deals with "the disappointed reasonable expectations of the weaker party. (*Harper v. Ultimo* (2003) 113 Cal.App.4th 1402, 1406.)

Plaintiff contends that the agreement was procedurally unconscionable because it was a contract of adhesion and presented in an oppressive manner. Plaintiff asserts that she was pressured to sign a large stack of documents prior to starting work and that this needed to be completed prior to patients arriving. (Romo Decl., ¶¶ 3-4.) A contract of adhesion is oppressive as a matter of law. (*Madden v. Kaiser Foundation Hospitals* (1976) 17 Cal.3d 699, 711.) An agreement is adhesive where a standardized contract, drafted and imposed by the party with superior bargaining strength, gives the other party

only an opportunity to adhere to the terms or to reject them. (*Armendariz, supra*, 24 Cal.4th 83, 113.)

Here, it is apparent that the agreement was somewhat adhesive in appearance, as the terms of the agreement were pre-printed. However, on the agreement Plaintiff signed on October 24, 2022, her initials are present on a statement reading, "Employee attests that this Agreement is not a condition of employment or continued employment, or the receipt of any employment-related benefit." (Leal Decl., Exh. A.) On the agreement Plaintiff signed on December 27, 2023, she did not initial this statement. (Ibid.) Additionally, Plaintiff has declared that she was pressured to sign the paperwork quickly, which is consistent with the Practice Manager's declaration that states Plaintiff took approximately 25 minutes to review the onboarding documents. (Romo Decl., ¶ 3; Velasquez Decl., ¶ 4.) As such, there is a degree of procedural unconscionability here.

Adhesion does not *per se* render the arbitration agreement unenforceable, since such contracts "are an inevitable fact of life for all citizens, businessman and consumer alike." (*Graham v. Scissor-Tail, Inc.* (1981) 28 Cal.3d 807, 817-818.) The Supreme Court has stated this is the reason for "the various intensifiers in our formulations: '*overly* harsh,' '*unduly* oppressive,' '*unreasonably* favorable.'" (*Baltazar v. Forever 21, Inc.,* (2016) 62 Cal.4th 1237, 1245 (emphasis in the original).) A finding of procedural unconscionability "does not mean that a contract will not be enforced, but rather that courts will scrutinize the substantive terms of the contract to ensure they are not manifestly unfair or one-sided." (*Id.* at p. 1244.) In other words, because procedural unconscionability has been found, the analysis turns on consideration of the substantive unconscionability prong.

Substantive unconscionability exists if the terms of the agreement are overly harsh or one-sided, provisions which shock the conscience, are unduly oppressive, or unreasonably favorable to the party seeking to compel arbitration. (*Sanchez v. Valencia Holding Co., LLC* (2015) 61 Cal.4th 899, 909.) With substantive unconscionability, the "paramount consideration" is the mutuality of obligation to arbitrate. (*Nyulassy v. Lockheed Martin Corp.* (2004) 120 Cal.App.4th 1267, 1286.) To find substantive unconscionability, the court must find a *significant* degree of unfairness. A simple "bad bargain" does not qualify. (*Baltazar v. Forever 21, Inc., supra,* 62 Cal.4th at pp. 1244-1245.) Of "paramount consideration" is the mutuality of obligation to arbitrate. (*Nyulassy v. Lockheed Martin Corp.* (2004) 120 Cal.App.4th 1267, 1286.)

Plaintiff argues that the agreement is substantively unconscionable because it requires Plaintiff to arbitrate any and all claims against Defendant or its agents, officers, directors, representatives, or employees without requiring them to do the same. The agreement reads, "The parties agree to submit to final and binding arbitration any dispute, controversy or claim that arises from the employment relationship." (Leal Decl., Exh. A.) The next paragraph clarifies, "To the fullest extent permitted by law, this Agreement extends to all claims that Company could assert against Employee or that Employee could assert against Company or its agents, officers, directors, representatives or employees." (Leal Decl., Exh. A.)

Plaintiff relies on *Cook v. University of Southern California* (2024) 102 Cal.App.5th 312, 326-328, for the position that this creates a lack of mutuality. The court in *Cook* did find that an agreement lacked mutuality where nonsignatories would be able to enforce

the arbitration agreement against the plaintiff, but the plaintiff would not be in a position to enforce arbitration as to them. (*Id*. at p. 328.) However, the court in *Cook* also noted that the defendant had not offered any justification for the one-sided nature of the agreement. (*Ibid*.) As noted by the California Supreme Court in *Ramirez v. Charter Communications, Inc., supra*, 16 Cal.5th 478, 500, when discussing a lack of mutuality, "unconscionability in this context requires a one-sided result along with the absence of a justification for it."

Here, Defendant asserts that there is a justification for the inclusion of agents, officers, directors, representatives, or employees because Defendant would be required to indemnify or defend these in the event of a claim by Plaintiff. Also, Defendant notes that Plaintiff could circumvent the arbitration agreement by naming an individual supervisor or coworker as a defendant in a separate suit. Defendant argues that such would undermine the efficiency and fairness arbitration is intended to provide. As such, Defendant has provided a justification for the inclusion of its agents, officers, directors, representatives, or employees in the arbitration agreement.

Plaintiff has not asserted any other basis for substantive unconscionability. The Court has found that there is a degree of procedural unconscionability, but that the agreement is not substantively unconscionable. Thus, the Court grants the motion to compel arbitration and stays the proceedings pending arbitration.

Procedure

The arbitration agreement is silent as to the choice of forum for arbitration. Arbitration may be conducted by any qualified arbitration forum located within the State of California. The parties shall meet and confer to select a mutually agreed upon arbitrator within 30 days. If the parties are unable to agree on an arbitrator, the parties may petition the Court pursuant to Code of Civil Procedure section 1281.6.

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: JS on 9/1/2025.
(Judge's initials) (Date)

(27)

Tentative Ruling

Re: ***James Pantuso v. Aurora Senior Residential Care, LLC***
Superior Court Case No. 25CECG01340

Hearing Date: September 3, 2025 (Dept. 503)

Motion: Order for Unredacted Report

Tentative Ruling:

This motion is taken off calendar as it does not appear from the court's record that moving papers were filed.

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: JS on 9/2/2025.
(Judge's initials) (Date)

(27)

Tentative Ruling

Re: ***Zafar Parvez v. Danielle Packer***
Superior Court Case No. 25CECG02543

Hearing Date: September 3, 2025 (Dept. 503)

Motion: Consolidate

Tentative Ruling:

This motion is taken off calendar as it does not appear from the court's record that moving papers were filed.

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: JS on 9/2/2025.
(Judge's initials) (Date)