

Tentative Rulings for October 14, 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.

15CECG01274	<i>Ouk v. Pacific Gas and Electric Co.</i> is continued to Tuesday, November 4, 2025 at 3:30 p.m. in Dept. 503.
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(Tentative Rulings begin at the next page)

Tentative Rulings for Department 503

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(47)

Tentative Ruling

Re: **RE: Petra Maggy Leon-Moneda Cour**
Superior Court Case No. 25CECG04378

Hearing Date: October 14, 2025 (Dept. 503)

Motion: Petition to Compromise for Jaden Lao

Tentative Ruling:

To grant petition. Order signed. No appearance necessary. The court sets a status conference for Tuesday, January 6, 2026, at 3:30 p.m., in Department 501, for confirmation of deposit of the minors' funds into the blocked accounts. If Petitioner files the Acknowledgment of Receipt of Order and Funds for Deposit in Blocked Account (MC-356) at least five court days before the hearing, the status conference will come off calendar.

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** 10/7/2025.
(Judge's initials) (Date)

(34)

Tentative Ruling

Re: ***In re: Roman Velasco***
Superior Court Case No. 25CECG04388

Hearing Date: October 14, 2025 (Dept. 503)

Motion: Petition to Compromise Minor's Claim

Tentative Ruling:

To deny without prejudice. Petitioner must file an amended petition, with appropriate supporting papers and proposed orders.

Explanation:

The minor claimant is the sole heir of decedent Elbia Carmine Galena and is settling his claims for the \$15,000 policy limit offered by Loya Casualty Insurance Company on behalf of its insureds Ramiro Diaz-Pacheco and Jose Lopez Gracida. After the filing fee for this petition and attorney fees are paid from the settlement the minor is left with a balance of \$10,815. The petition has not been completed at item 18 indicating the disposition of the balance of funds for the minor. Although there is evidence that the petitioner intends to invest the funds in an annuity this information must be reflected in the petition itself.

Additionally, the court will require declarations from both Ramiro Diaz-Pacheco and Jose Lopez Gracida attesting to whether each has additional assets with which to satisfy a judgment against him.

Throughout the petition the petitioner is referred to as the minor's guardian ad litem. No such appointment has been ordered in connection with this petition. A parent is not required to be appointed as guardian ad litem to seek approval of a settlement for their child. (See, Prob. Code § 3411.) The court would request that the appointment either be formally requested through the appropriate petition or the order language corrected to reflect that Alexander Velasco is acting in his capacity as parent.

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 10/10/2025.
(Judge's initials) (Date)

(03)

Tentative Ruling

Re: **Helms v. Vanik & Arsen, LLC**
Case No. 23CECG04954

Hearing Date: October 14, 2025 (Dept. 503)

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

Tentative Ruling:

To overrule the defendant's demurrer to the first and fourth causes of action. To sustain the demurrer to the fifth cause of action, with leave to amend, for failure to state facts sufficient to constitute a cause of action.

To deny the motion to strike the prayer for punitive damages and attorney's fees under the Elder Abuse Act. To grant the motion to strike the prayer for attorney's fees under Civil Code section 1430(b), without leave to amend. To grant the motion to strike the prayer for treble damages under Civil Code section 3345, with leave to amend.

Plaintiffs shall serve and file their second amended complaint within ten days of the date of service of this order. All new allegations shall be in **boldface**.

Explanation:

Demurrer: Defendant contends that plaintiffs' first cause of action fails to state a valid cause of action for elder or dependent adult abuse or neglect because plaintiffs have not alleged that their decedent was an elder or dependent adult as defined under the Welfare and Institutions Code. Defendant also argues that plaintiffs have not alleged any facts showing that defendant and its employees did not carry out their caregiving obligations, or that any director, officer, or managing agent of defendant personally participated in or ratified the alleged neglect. Defendant argues that plaintiffs' facts show nothing more than professional negligence, not elder or dependent adult abuse or neglect. Therefore, they conclude that the court should sustain the demurrer to the first cause of action.

However, while defendant claims that plaintiffs have not alleged that decedent was an elder or dependent adult, plaintiffs have alleged that, "At all times hereinmentioned, defendants knew that decedent was a dependent adult as defined in Welfare & Institutions Code §15610.23 and a disabled person as defined in Civil Code §1761(g)." (FAC, ¶ 8., italics added.) They have also alleged that decedent required assistance with eating, drinking, walking, going to the toilet, bed repositioning, and monitoring his skin condition. (*Id.* at ¶ 11.) Thus, plaintiffs have adequately alleged that decedent was a disabled and dependent adult under the Elder and Dependent Adult Abuse Act.

Also, to the extent that defendant argues that plaintiffs have not alleged any facts beyond simple professional negligence or that they failed to carry out their duties as

caregivers for decedents, plaintiffs have adequately alleged that defendants engaged in dependent adult neglect.

"From the statutes and cases discussed above, we distill several factors that must be present for conduct to constitute neglect within the meaning of the Elder Abuse Act and thereby trigger the enhanced remedies available under the Act. The plaintiff must allege (and ultimately prove by clear and convincing evidence) facts establishing that the defendant: (1) had responsibility for meeting the basic needs of the elder or dependent adult, such as nutrition, hydration, hygiene or medical care; (2) knew of conditions that made the elder or dependent adult unable to provide for his or her own basic needs; and (3) denied or withheld goods or services necessary to meet the elder or dependent adult's basic needs, either with knowledge that injury was substantially certain to befall the elder or dependent adult (if the plaintiff alleges oppression, fraud or malice) or with conscious disregard of the high probability of such injury (if the plaintiff alleges recklessness). The plaintiff must also allege (and ultimately prove by clear and convincing evidence) that the neglect caused the elder or dependent adult to suffer physical harm, pain or mental suffering. Finally, the facts constituting the neglect and establishing the causal link between the neglect and the injury 'must be pleaded with particularity,' in accordance with the pleading rules governing statutory claims." (*Carter v. Prime Healthcare Paradise Valley LLC* (2011) 198 Cal.App.4th 396, 406–407, citations omitted.)

Here, plaintiffs have alleged that decedent was a patient at defendants' facility from December 1, 2022 to November 3, 2023, that defendants knew that he was a disabled and dependent adult, and that defendants had a duty to provide basic care to decedent, including providing him with nutrition, hydration, assistance with toileting and hygiene, walking and mobility, and skin condition monitoring. (*Id.* at ¶¶ 6, 8, 11.) They knew that decedent was at serious risk of harm if they did not provide these basic services. (*Id.* at ¶ 11.) Nevertheless, they made a conscious choice to understaff their facility, and failed to ensure that the facility was adequately staffed with qualified caregivers to respond to patients' needs. (*Id.* at ¶ 10.) Defendants knew that their patients were likely to suffer injuries as a result of their decision not to train and monitor their caregivers, as well as their decision not to transfer patients to a higher level of care when they needed it, as their staff would not be able to provide basic, necessary care to the patients, including decedent. (*Ibid.*) Defendants made a conscious decision not to staff, train, and monitor care staff at their facilities in order to minimize costs and maximize their profits. (*Id.* at ¶ 12.) "These decisions were despicable and in conscious disregard of the rights and safety of defendants' residents/patients, including decedent." (*Ibid.*) These decisions left caregivers at their facilities chronically unable to respond to the care needs of patients, including decedent, which led to care staff's repeated decisions not to provide necessary care to decedent. (*Ibid.*)

Defendants' staff repeatedly chose not to provide decedent with aid in consuming food and fluids, repeatedly chose not to provide decedent with aid in toileting and hygiene, repeatedly chose not to provide decedent with close supervision of the condition of his skin, repeatedly chose not to provide decedent with aid in walking, bed mobility, repositioning, and pressure relief, and chose not to address the causes of the decline in the condition of decedent's skin, including choosing not to seek assistance from decedent's physician, registered dietician, or nursing staff specializing in skin care. (*Id.* at ¶ 13.) Defendants knew that decedent's condition had begun to decline, and

they knew that they needed to investigate the cause of the decline and address it, including seeking assistance from decedent's physician, registered dietician, or nursing staff specializing in skin care and acting on the recommendations of these people. (*Id.* at ¶ 11.) Thus, plaintiffs allege that defendants' actions constituted dependent adult neglect under Welfare and Institutions Code section 15610.07. (*Id.* at ¶ 14.) As a result of defendants' actions and inactions, decedent suffered injuries and pain, including malnutrition, dehydration, and severe skin breakdown, which ultimately led to his death. (*Id.* at ¶ 15.)

These allegations are sufficient to state a claim for elder abuse, as plaintiffs have alleged that defendant made a conscious choice to understaff its facility and undertrain its employees, which led to a failure to provide for decedent's basic needs, including food, water, toileting and hygiene, and skin monitoring, which in turn caused decedent's injuries and death. Such acts or failures to act are exactly the type of neglect described in *Carter* and the other cases cited therein. As a result, the court intends to find that plaintiffs have adequately alleged facts to support their dependent adult neglect case.

Defendant also contends that plaintiffs have not alleged facts showing that it was guilty of oppression, fraud, or malice, or that it engaged in reckless conduct in disregard for the rights and safety of others, so plaintiffs have not shown that they can recover enhanced remedies under the Elder Abuse Act. (Civil Code, § 3294; Welf. & Instit. Code, § 15657.) Defendant also argues that plaintiffs have not alleged any facts showing that its officers, directors or managing agents engaged in or ratified any of the allegedly malicious, fraudulent, or oppressive conduct.

Again, however, plaintiffs have alleged that defendant made a deliberate choice to understaff its facility, undertrain its employees, and fail to summon outside help for its patients when needed in an effort to reduce its costs and maximize its profits. (FAC, ¶¶ 10-13.) Defendant knew that it was likely that its patients, including plaintiffs' decedent, would be injured as a result of its decisions, yet it disregarded the likelihood of harm to others and chose not to staff, train, or monitor its care staff at the facility. (*Id.* at ¶ 13.) These decisions left staff chronically unprepared to respond to the needs of residents, and resulted in the staff's decisions not to provide necessary care to decedent. (*Ibid.*) Decedent suffered serious injuries and ultimately died as a result of defendant's decisions. (*Id.* at ¶ 15.)

Thus, plaintiffs have adequately alleged that defendant acted with reckless and conscious disregard for the rights and safety of others, which is sufficient to support the enhanced remedies under the Elder Abuse Act. Furthermore, plaintiffs have alleged that all defendants, including the administrator, medical director, director of nursing, and others in defendant Grand Villa's management, administration, and staff, acted as agents, servants, and employees of the other defendants and ratified the conduct of their co-defendants. (*Id.* at ¶¶ 4, 5.) As a result, plaintiffs have adequately alleged that defendant either personally made the decisions alleged above, or ratified them after the fact. Consequently, the court intends to overrule the demurrer to the first cause of action.

The court will also overrule the demurrer to the fourth cause of action for wrongful death. Defendant argues that plaintiffs have not alleged sufficient facts to state a claim for wrongful death because they have not alleged any facts showing that decedent died, or any facts showing that there was a causal link between defendant's actions and

his death. Without facts showing that they caused decedent's death, defendant contends that plaintiffs have failed to state a valid claim for wrongful death.

" 'The elements of the cause of action for wrongful death are the tort (negligence or other wrongful act), the resulting death, and the damages, consisting of the pecuniary loss suffered by the heirs.'" (*Quiroz v. Seventh Ave. Center* (2006) 140 Cal.App.4th 1256, 1263, citations and italics omitted.)

Here, plaintiffs have alleged that decedent was disabled and dependent person, that he was a patient at defendant's facility, that defendant was decedent's care custodian, and that it was responsible for taking care of his basic needs. (FAC, ¶¶ 8, 9.) They also allege that decedent died as a result of defendant's failure to provide him with help with his basic needs, including assistance with eating, drinking, walking, toileting, and monitoring his skin condition. (FAC, ¶¶ 13-15, 27.) Therefore, plaintiffs have adequately alleged that decedent died, and that his death was the direct result of defendant's tortious conduct. It is hard to understand what other facts defendant believes that plaintiffs need to allege in order to state a wrongful death claim. Therefore, the court intends to overrule the demurrer to the fourth cause of action for wrongful death.

However, the court intends to sustain the demurrer to the fifth cause of action for negligent infliction of emotional distress. Defendant contends that negligent infliction of emotional distress is not a separate cause of action, but rather only a variation of negligence where the primary form of damages is emotional distress rather than physical harm. Also, to the extent that plaintiffs are alleging that they suffered emotional distress due to witnessing decedent suffering harm due to defendant's negligence, plaintiffs have not alleged any facts showing that they actually witnessed the injury-producing events or that they were aware of the harm at the time they witnessed it. Thus, defendant concludes that plaintiffs have not alleged a valid cause of action for negligent infliction of emotional distress.

First, it is true that " '[The] *negligent* causing of emotional distress is not an independent tort but the tort of *negligence*' 'The traditional elements of duty, breach of duty, causation, and damages apply. Whether a defendant owes a duty of care is a question of law. Its existence depends upon the foreseeability of the risk and upon a weighing of policy considerations for and against imposition of liability.'" (*Marlene F. v. Affiliated Psychiatric Medical Clinic, Inc.* (1989) 48 Cal.3d 583, 588-589, citations omitted, italics in original.)

However, in the present case it does not appear that the negligent infliction of emotional distress claim is duplicative of the plaintiffs' professional negligence claim, as the professional negligence claim is based on the physical harm suffered by decedent, whereas the negligent infliction of emotional distress claim is based on the emotional harm that plaintiffs, who are decedent's parents, suffered upon witnessing the harm suffered by decedent before he died. "Plaintiffs are the parents and sole surviving heirs of decedent, and thus were closely related to him. Plaintiffs regularly visited decedent during the time decedent was resident at defendants' facilities and under defendants' care, and thus were present during the injury-producing events at or near the time they occurred and was then aware of these injury-producing events and their effects, which occurred through defendants' wrongdoing, and was [*sic*] aware that these events and their effects were causing injury to decedent." (FAC, ¶ 33.) "The conduct of the

defendants, as alleged, caused plaintiffs to sustain severe emotional injury and severe physical and mental pain and suffering to plaintiffs' damage in a sum according to proof at trial." (*Id.* at ¶ 34.)

Thus, plaintiffs clearly base the emotional distress claim on their own emotional harm that they suffered when they saw decedent being injured due to the negligence of defendant. As a result, the court will not find that the emotional distress claim is redundant or duplicative of the professional negligence claim.

On the other hand, plaintiffs have failed to allege sufficient facts to support their claim for bystander emotional distress. In the seminal case of *Thing v. LaChusa* (1989) 48 Cal.3d 644, the California Supreme Court explained the elements for a bystander emotional distress claim. "In the absence of physical injury or impact to the plaintiff himself, damages for emotional distress should be recoverable only if the plaintiff: (1) is closely related to the injury victim, (2) is present at the scene of the injury-producing event at the time it occurs and is then aware that it is causing injury to the victim and, (3) as a result suffers emotional distress beyond that which would be anticipated in a disinterested witness." (*Id.* at p. 647.)

Here, plaintiffs allege that they are closely related to decedent, as they are his parents. (FAC, ¶ 33.) They also allege that they regularly visited decedent at defendant's facility, and that they "were present during the injury-producing events at or near the time they occurred and was [*sic*] then aware of these injury-producing events and their effects, which occurred through defendants' wrongdoing, and was [*sic*] aware that these events and their effects were causing injury to decedent." (*Ibid.*) They also allege that they suffered several emotional injury as a result of defendant's conduct. (*Id.* at ¶ 34.)

Thus, plaintiffs have alleged in conclusory fashion the elements of an NIED claim. However, they do not allege what "injury-producing events" they witnessed, when they witnessed them, or how they were aware at the time of the events that their decedent was being harmed. Considering that plaintiffs have alleged that decedent was a resident of defendant's facility for almost a year and suffered harm from defendant's alleged neglect on a constant basis, including malnutrition, dehydration, and bedsores, it is unclear which "injury-producing events" plaintiffs witnessed, or how they knew that decedent was being injured at the time of the events. Simply alleging vague conclusions is not enough. Plaintiffs need to allege some facts showing which injury-producing events, when they witnessed them, and how they knew that decedent was being injured. Since they have not done so, the court intends to sustain the demurrer to the fifth cause of action for failure to state facts sufficient to state a cause of action, with leave to amend.

Finally, to the extent that defendant demurs to the allegedly improper claims for damages in the first amended complaint, a general demurrer will not lie as to an improper claim for damages or part of a cause of action. "It has been held that a prayer for relief is not subject to demurrer and the fact that a plaintiff has requested exemplary damages to which he may not be entitled does not affect the sufficiency of his complaint." (*Ramsden v. Western Union* (1977) 71 Cal.App.3d 873, 883, citation omitted.) Such improper prayers or allegations should be challenged through a motion to strike, not a demurrer. (Compare Code Civ. Proc., §§ 430.10 and 435.) In fact, defendant has already filed a motion to strike with regard to the allegedly improper prayers for

damages, so the court will address the prayers for damages in its ruling on the motion to strike rather than when ruling on the demurrer.

Motion to Strike: First, defendant moves to strike the prayers for enhanced remedies under the Elder Abuse Act, including the prayers for attorney's fees and punitive damages, contending that plaintiffs have not alleged facts showing that defendant was guilty of fraud, oppression, malice, or reckless disregard for the rights and safety of others, and thus they cannot obtain punitive damages or attorney's fees under the Elder Abuse Act. (Welf. & Instit. Code, § 15657.) However, for the same reasons discussed above with regard to the demurrer to the dependent adult abuse cause of action, the court intends to find that plaintiffs have alleged sufficient facts to support their prayer for enhanced remedies.

Under Welfare and Institutions Code section 15657, "Where it is proven by clear and convincing evidence that a defendant is liable for physical abuse as defined in Section 15610.63, neglect as defined in Section 15610.57, or abandonment as defined in Section 15610.05, and that the defendant has been guilty of recklessness, oppression, fraud, or malice in the commission of this abuse, the following shall apply, in addition to all other remedies otherwise provided by law: [¶] (a) The court shall award to the plaintiff reasonable attorney's fees and costs." (Welf. & Inst. Code, § 15657, subd. (a).) "The standards set forth in subdivision (b) of Section 3294 of the Civil Code regarding the imposition of punitive damages on an employer based upon the acts of an employee shall be satisfied before any damages or attorney's fees permitted under this section may be imposed against an employer." (Welf. & Inst. Code, § 15657, subd. (c).)

"As used in this section, the following definitions shall apply: (1) 'Malice' means conduct which is intended by the defendant to cause injury to the plaintiff or despicable conduct which is carried on by the defendant with a willful and conscious disregard of the rights or safety of others. (2) 'Oppression' means despicable conduct that subjects a person to cruel and unjust hardship in conscious disregard of that person's rights. (3) 'Fraud' means an intentional misrepresentation, deceit, or concealment of a material fact known to the defendant with the intention on the part of the defendant of thereby depriving a person of property or legal rights or otherwise causing injury." (Civ. Code, § 3294, subd. (c)(1)-(3), paragraph breaks omitted.)

Here, defendant contends that plaintiffs have not alleged any facts showing that it was guilty of fraud, oppression, malice, or reckless disregard of the rights and safety of others. However, plaintiffs have alleged that defendant made a deliberate choice to understaff its facility and undertrain its employees, knowing that doing so would likely cause harm to its residents, including decedent. (FAC, ¶¶ 10-13.) Plaintiffs also allege that decedent suffered severe injuries and ultimately died because of defendant's decision to understaff its facility and undertrain its employees, as defendant's employees were unable to provide adequate care to decedent, including helping him with food and drink, walking, repositioning in bed, going to the toilet, and monitoring his skin condition. (*Id.* at ¶¶ 13-15.) Decedent suffered malnutrition, dehydration, pain, emotional distress, skin breakdown, and ultimately died as a result of defendant's intentional decision not to provide adequate staff at its facility. (*Id.* at ¶ 15.)

Consequently, plaintiffs have adequately alleged facts to show that defendant acted with malice, oppression, fraud, or reckless disregard for the rights and safety of others. Also, to the extent that defendant argues that plaintiffs have not alleged any

facts showing that defendant's officers, directors, or managing agents engaged in the despicable conduct or ratified the misconduct of its employees, plaintiffs have alleged that defendant itself made the decision to understaff its employees and undertrain them, and they have also alleged that defendant's officers, directors, or managing agents engaged in the misconduct. (FAC, ¶¶ 4, 5, 10-13.) Therefore, they have sufficiently alleged that defendant either personally engaged in the wrongful conduct, or ratified the conduct of their employees. Thus, plaintiffs have sufficiently supported their prayer for enhanced remedies like attorney's fees and punitive damages, and the court intends to deny the motion to strike the prayer for attorney's fees and punitive damages from the complaint.

Next, defendant moves to strike the prayer for attorney's fees under Health and Safety Code section 1430(b). Defendant contends that plaintiffs have not alleged that defendant's facility was a "skilled nursing facility" or "intermediate care facility", and in fact they admit that defendant ran a "congregate living facility." (FAC, ¶ 2.) Thus, defendant contends that plaintiffs have not shown that they are entitled to attorney's fees under section 1430(b).

Under section 1430, "A current or former resident or patient, or the legal representative, personal representative, or successor in interest of a current or former resident or patient, of a *skilled nursing facility*, as defined in subdivision (c) of Section 1250, or *intermediate care facility*, as defined in subdivision (d) of Section 1250, may bring a civil action against the licensee of a facility who violates any rights of the resident or patient as set forth in Section 72527 or 73523 of Title 22 of the California Code of Regulations, or any other right provided for by federal or state law or regulation." (Health & Saf. Code, § 1430, subd. (b)(1), italics added.) Thus, under the plain language of section 1430, the patient must have been a resident of a skilled nursing facility or an intermediate care facility in order for the statute to apply. Here, plaintiffs do not allege that defendant's facility was a skilled nursing facility or an intermediate care facility. In fact, they allege that defendant runs a "congregate living facility." (FAC, ¶ 2.) As a result, plaintiffs have not alleged facts to support their request for relief under section 1430(b).

Plaintiffs' opposition does not respond to defendant's motion challenging their prayer for attorney's fees under section 1430(b). Therefore, plaintiffs apparently concede that they have not alleged any facts to support their prayer for relief under section 1430(b). Nor have they shown how they could allege any facts to support their prayer, particularly since they have already admitted that defendant runs a congregate living facility. As a result, the court intends to grant the motion to strike the prayer for relief under section 1430(b), without leave to amend.

Finally, defendant moves to strike the prayer for treble damages under Civil Code section 3345. Defendant contends that the prayer is improper, as plaintiffs have not alleged any facts showing that their decedent was a "disabled person" as defined in Civil Code section 1761, and there are no facts showing that defendant engaged in any unfair or deceptive acts or practices, or unfair methods of competition.

Under Civil Code section 3345, "This section shall apply only in actions brought by, on behalf of, or for the benefit of those individuals specified in paragraphs (1) to (3), inclusive, to redress unfair or deceptive acts or practices or unfair methods of competition." (Civ. Code, § 3345, subd. (a).)

Section 3345 applies to "Senior citizens", "Disabled persons, as defined in subdivision (g) of Section 1761" and "Veterans." (Civ. Code, § 3345, subd. (b)(1)-(3).) Under section 1761, subdivision (g), "'Disabled person' means a person who has a physical or mental impairment that substantially limits one or more major life activities." (Civ. Code, § 1761, subd. (g).)

"Whenever a trier of fact is authorized by a statute to impose either a fine, or a civil penalty or other penalty, or any other remedy the purpose or effect of which is to punish or deter, and the amount of the fine, penalty, or other remedy is subject to the trier of fact's discretion, the trier of fact shall consider the factors set forth in paragraphs (1) to (3), inclusive, in addition to other appropriate factors, in determining the amount of fine, civil penalty or other penalty, or other remedy to impose. Whenever the trier of fact makes an affirmative finding in regard to one or more of the factors set forth in paragraphs (1) to (3), inclusive, it may impose a fine, civil penalty or other penalty, or other remedy in an amount up to three times greater than authorized by the statute, or, where the statute does not authorize a specific amount, up to three times greater than the amount the trier of fact would impose in the absence of that affirmative finding." (Civ. Code, § 3345, subd. (b).)

Here, plaintiffs have alleged that their decedent was a dependent adult who required help with eating, drinking, toileting, walking, and bed positioning (FAC, ¶¶ 8, 11), so they have met the requirement of alleging that decedent was a "disabled person" for the purpose of section 3345. However, they have not alleged any facts showing that defendant engaged in any unfair or deceptive acts or practices, or unfair methods of competition. Plaintiffs allege that defendant intentionally understaffed its facility and undertrained its employees, which resulted in injuries to decedent, and ultimately caused his death. However, they do not allege any facts showing that defendant's conduct constituted unfair or deceptive acts or practices, or unfair methods of competition. As a result, plaintiffs have not shown that they are entitled to treble damages or penalties under section.

Therefore, the court intends to grant the motion to strike the prayer for treble damages from the complaint. However, the court will grant leave to amend, as it is possible that plaintiffs might be able to allege more facts to show that defendant engaged in unfair or deceptive acts or unfair business practices, which would support their prayer for treble damages.

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 10/10/2025.
(Judge's initials) (Date)