Tentative Rulings for June 15, 2022
Department 502

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).)

21CECG00873 Cameron Arballo v. Karen Aminian (Dept. 502)
21CECG02034 Hernan Orozco v. Milton Nchinda, RN (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.

(Tentative Rulings begin at the next page)

Tentative Rulings for Department 502

Begin at the next page

(03)

Tentative Ruling

Re: ***SmartMed v. FirstChoice Medical Group, Inc.***
Superior Court Case No. 18CECG00374

Hearing Date: June 15, 2022 (Dept. 502)

Motion: Defendant Vantage Medical Group's Motion for Sanctions Against Plaintiff SmartMed and its Counsel

Tentative Ruling:

To deny defendant's motion for evidence sanctions against plaintiff SmartMed. To grant monetary sanctions against SmartMed and its counsel, in the amount of $4,150, for its unreasonable and unjustified failure to comply with this court's stipulated order regarding disclosure of expert materials. (Code Civ. Proc. § 2023.030.) Plaintiff shall pay monetary sanctions to defendant Vantage within 30 days of the date of service of this order. Additionally, plaintiff will be responsible for the cost of the second deposition of its expert which includes expert fees, court reporter fees and reasonable attorney's fees.

Explanation:

"The Civil Discovery Act imbues trial courts with 'broad' discretion to sanction the 'misuse of the discovery process.' As pertinent here, 'misuse of the discovery process' includes (1) '[f]ailing to respond [to] or to submit to an authorized method of discovery, (2) '[m]aking an evasive response to discovery,' and (3) '[d]isobeying a court order to provide discovery.' When confronted with such misuse, a court may impose (1) monetary sanctions, (2) sanctions that deem specified issues to be 'established' or that 'prohibit[ ]' the noncompliant party from raising 'opposing ... claims or defenses' (so-called 'issue sanction[s]'), (3) sanctions that preclude the admission of evidence (so-called 'eviden[tiary] sanction[s]'), or (4) 'terminating sanction[s],' which include 'striking [a defendant's answer]'." (*Siry Investment, L.P. v. Farkhondehpour* (2020) 45 Cal.App.5th 1098, 1116–1117, citing Code of Civil Procedure section 2023.030.)

Also, under Code of Civil Procedure section 2034.300, "on objection of any party who has made a complete and timely compliance with Section 2034.260, the trial court shall exclude from evidence the expert opinion of any witness that is offered by any party who has unreasonably failed to do any of the following: … Produce reports and writings of expert witnesses under Section 2034.270." (Code Civ. Proc., § 2034.300, subd. (c).)

"'Failure to comply with expert designation rules may be found to be "unreasonable" when a party's conduct gives the appearance of gamesmanship, such as undue rigidity in responding to expert scheduling issues. The operative inquiry is whether the conduct being evaluated will compromise these evident purposes of the discovery statutes: "'to assist the parties and the trier of fact in ascertaining the truth; to encourage settlement by educating the parties as to the strengths of their claims and defenses; to expedite and facilitate preparation and trial; to prevent delay; and to

safeguard against surprise.'"'" (*Du-All Safety, LLC v. Superior Court* (2019) 34 Cal.App.5th 485, 499, internal citations omitted.)

"The trial court has broad discretion in selecting discovery sanctions, subject to reversal only for abuse. The trial court should consider both the conduct being sanctioned and its effect on the party seeking discovery and, in choosing a sanction, should '"'attempt [ ] to tailor the sanction to the harm caused by the withheld discovery.'"' The trial court cannot impose sanctions for misuse of the discovery process as a punishment." (*Doppes v. Bentley Motors, Inc.* (2009) 174 Cal.App.4th 967, 992, internal citations omitted.)

"When faced with a party's misuse of the discovery process, a trial court 'should' impose '[t]he penalty ... appropriate to the dereliction.' That is because the purpose of discovery sanctions is to 'protect the interests of the party entitled to[,] but denied[,] discovery,' not to 'punish[ ]' the noncompliant party or to 'put the prevailing party in a better position than he would have had if he had obtained the discovery sought.' Proportionality is critical when it comes to terminating sanctions because they altogether deny the non-compliant party a hearing on the merits and thus implicate due process." (*Siry Investment, L.P. v. Farkhondehpour*, *supra*, 45 Cal.App.5th at p. 1117, internal citations omitted.)

"Destroying evidence in response to a discovery request after litigation has commenced would surely be a misuse of discovery within the meaning of section 2023, as would such destruction in anticipation of a discovery request." (*Cedars-Sinai Medical Center v. Superior Court* (1998) 18 Cal.4th 1, 12.) "While there is no tort cause of action for the intentional destruction of evidence after litigation has commenced, it is a misuse of the discovery process that is subject to a broad range of punishment, including monetary, issue, evidentiary, and terminating sanctions. A terminating sanction is appropriate in the first instance without a violation of prior court orders in egregious cases of intentional spoliation of evidence." (*Williams v. Russ* (2008) 167 Cal.App.4th 1215, 1223, internal citations omitted.)

Here, defendant moves for an evidence sanction excluding plaintiff's expert, Mr. Pew, from testifying as to his opinions, and for monetary sanctions against plaintiff and its counsel. Defendant contends that plaintiff and Mr. Pew have violated the stipulation of the parties regarding disclosure of experts, which was entered as an order of the court, and therefore evidentiary and monetary sanctions are warranted.

The court agrees that plaintiff and its expert have violated the stipulated order regarding disclosure of expert materials. The December 20, 2021 stipulated order states that "[a]ny expert reports or other discoverable expert witness information that is not required to be exchanged at the time of the exchanges of expert witness information, including without limitation, documents reviewed by the expert, documents relied upon by the expert, communications with counsel, and subsequent expert reports, shall be exchanged one week prior to the deposition scheduled for that expert." (Burgess decl., Exhibit 1, Stipulated Order of December 20, 2021, p. 4.) However, despite the clear language of the stipulated order, Mr. Pew admitted in deposition that he had not produced the "analytical framework" that counsel had sent to him, that he had engaged in email communications with counsel about the framework and made

revisions to it, and that he had deleted the framework and associated emails before his deposition so they could not be produced. Thus, plaintiff and their counsel have unreasonably and deliberately violated the court's order regarding production of expert materials.

In opposition to the motion, plaintiff's counsel claims that the failure to produce the framework and emails was an inadvertent error caused by his inexperience with California's rules regarding expert disclosure, and that he has since recovered the missing documents and served them on defense counsel. Yet plaintiff's counsel is highly experienced attorney who has been practicing in California for decades, so his claim to be unfamiliar with California's rules regarding disclosure of expert materials is unconvincing. Counsel also signed the stipulation that led to the order requiring disclosure of all expert communications and materials before the expert's deposition, so he can hardly claim that he was not aware of the fact that he needed to produce the materials prior to Mr. Pew's deposition. Also, even if counsel is unfamiliar with California's rules regarding experts, his failure to familiarize himself with the rules was unreasonable in light of his representation of the plaintiff in the ongoing litigation in California. Counsel has an obligation to research the law and comply with the Civil Discovery Act when appearing in a California court. As a result, the court intends to find that counsel and his expert's failure to comply with the stipulated order was unreasonable and thus warrants some form of sanctions.

Nevertheless, evidentiary sanctions barring the expert from testifying or limiting the scope of his testimony are not warranted here. Plaintiff's counsel states that he has now served copies of the missing documents, and he has also offered to make Mr. Pew available for a further deposition on the matters covered in the newly disclosed communications. Thus, it does not appear that defendant has been substantially harmed by the failure to disclose the materials before Mr. Pew's first deposition. While defendant claims that it has been harmed because it will have to depose Mr. Pew shortly before trial and after plaintiff has already taken the depositions of defendant's experts, there is no reason to believe that defendant will suffer any significant prejudice even if it has to take Pew's deposition within a month of the trial date and after its own experts have been deposed. Defendant has already had a chance to depose Pew for a full day in February, and it was able to ask him questions about the scope and nature of his opinions and conclusions at that time. The fact that it will have to take a follow-up deposition within a month of the trial does not constitute the type of prejudice that would justify granting evidentiary sanctions and barring Pew from testifying about his opinions at trial.

Defendant has not pointed to any pattern of discovery abuses from plaintiff or its counsel, such as routinely failing to answer discovery or providing evasive or nonresponsive answers. Also, there is no evidence indicating that the documents that were withheld by Pew were so material to the issues of the case that defendant has been unable to prepare for trial or prepare its defenses. Again, defendant has had the opportunity to depose Pew at length about his opinions, and there is nothing that would tend to indicate that the missing documents included any additional significant information. In any event, plaintiff has offered to allow a further deposition of Mr. Pew to cover any matters that might be raised by the missing documents. Therefore, there is no

basis for imposing drastic sanctions like an evidence sanction here, and the court intends to deny the request for an order excluding or limiting Pew's testimony.

On the other hand, monetary sanctions against plaintiff and its counsel are warranted, since plaintiff's counsel and the expert did unreasonably withhold documents that were required to be produced under the stipulated order. As discussed above, plaintiff's counsel's explanation for failing to disclose the documents and instructing his expert to destroy them is not convincing in light of his considerable experience and his obligations under California law. Therefore, the court intends to find that plaintiff's failure to comply with the order was unjustified and willful, and it intends to impose monetary sanctions against plaintiff and its counsel.

However, the court intends to reduce the amount of sanctions to a more reasonable number. Defendant has requested sanctions of $38,513.50 based on 30.1 hours billed at $785 per hour by Mr. Burgess and 22.9 hours billed at $650 per hour by the Ms. Suwatanapongched. (Burgess decl., ¶ 13.) The hours billed are excessive, especially considering the relatively simple nature of the motion. There is simply no reason that a motion for sanctions should require 53 hours of work by a partner and an associate. The billing rates claimed by counsel are also excessive compared to local Fresno rates. Therefore, the court intends to grant sanctions in the amount of $4,150 against plaintiff and its counsel based on eight hours of time billed at $350 per hour for the associate and three hours billed at $450 per hour for the partner. Additionally, plaintiff will be responsible for the cost of the second deposition of its expert which includes expert fees, court reporter fees and reasonable attorney's fees.

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: RTM on 6/13/2022.
(Judge's initials) (Date)

(35)

Tentative Ruling

Re: ***Zenith Insurance Company v. Lummus Corporation et al.***
Superior Court Case No. 19CECG03814

Hearing Date: June 15, 2022 (Dept. 502)

Motion: by defendant Lummus Corporation for summary judgment or, in the alternative, summary adjudication

Tentative Ruling:

To deny summary judgment. To grant summary adjudication as to the issue of the express or implied assumption exception to the general rule of successor nonliability in favor of defendant Lummus Corporation. To grant summary adjudication as to the issue of the fraudulent transfer exception to the general rule of successor nonliability in favor of defendant Lummus Corporation. To deny summary adjudication on all other grounds.

Explanation:

On October 21, 2019, plaintiff filed the instant action for products liability. Plaintiff is an insurance company who paid out benefits on a worker's compensation policy regarding an injury to an insured's employee, Gabino Orrostieta. Plaintiff alleges that defendant Lummus Corporation ("LC"), as the manufacturer of the cotton gin that injured Orrostieta was liable because of its faulty product, the Rota-Matic Cotton Gin Stand ("the Device"). On May 4, 2020, plaintiff amended a DOE defendant, identifying DOE 1 as Lummus Industries, Inc. ("LI")

LC brings the present motion for summary judgment or, in the alternative, summary adjudication regarding the applicability of liability through the purchase of a business entity.

A trial court shall grant summary judgment where there are no triable issues of material fact and the moving party is entitled to judgment as a matter of law. (Code Civ. Proc. §437c(c); *Schacter v. Citigroup* (2009) 47 Cal.4th 610, 618.) The issue to be determined by the trial court in consideration of a motion for summary judgment is whether or not any facts have been presented which give rise to a triable issue, and not to pass upon or determine the true facts in the case. (*Petersen v. City of Vallejo* (1968) 259 Cal.App.2d 757, 775.)

The moving party bears the initial burden of production to make a prima facie showing of the nonexistence of any triable issue of material fact; if he or she carries this burden, the burden shifts to plaintiff to make a prima facie showing of the existence of a triable issue. (*Aguilar v. Atlantic Richfield Co.* (2001) 25 Cal.4th 826, 849.) A defendant has met his burden of showing that a cause of action has no merit if he has shown that one or more elements of the cause of action cannot be established, or that there is a complete defense to that cause of action. (*Ibid.*) Once the defendant has met that

burden, the burden shifts to the plaintiff to show a triable issue of one or more material facts exists as to the cause of action or a defense thereto. (*Ibid.*)

Affidavits of the moving party must be strictly construed and those of the opponent liberally construed. (*Petersen*, *supra*, 259 Cal.App.2d at p. 775.) The opposing affidavit must be accepted as true, and need not be composed wholly of strictly evidentiary facts. (*Ibid.*) Any doubts are to be resolved against the moving party. The facts in the affidavits shall be set forth with particularity. (*Ibid.*) The movant's affidavit must state all of the requisite evidentiary facts and not merely the ultimate facts or conclusions of law or conclusions of fact. (*Ibid.*) All doubts as to the propriety of granting the motion are to be resolved in favor of the party opposing the motion. (*Hamburg v. Wal-Mart Stores, Inc.* (2004) 116 Cal.App.4th 497, 502.)

General Liability

LC argues that plaintiff's claim for products liability against it must fail because it did not manufacture, design or sell the Device that caused Orrostieta's injury, and thus there is no liability.

Generally, a manufacturer, distributor, or retailer is liable if a defect in the manufacture or design of its product causes injury when the product is being used in a reasonably foreseeable way. (*Soule v. GM Corp.* (1994) 8 Cal.4th 548, 560.)

Since the filing of the moving papers, the parties conducted additional discovery and on May 10, 2022, the parties stipulated to the filing of the First Amended Complaint ("FAC"), which added an allegation that LC is the successor-in-interest of LI, and that plaintiff wished to hold LC liable as the same. The parties agreed to treat the present summary judgment/adjudication motion as filed in regard to the FAC. Although it is undisputed that LC did not manufacture, design, or sell the Device, the court finds that the FAC sufficiently alleges a theory of successor liability upon which plaintiff may proceed against LC.

The parties further do not dispute that the general rule of successor nonliability presumes that where a successor corporation purchases a corporation, or otherwise acquires by transfer, the assets of another corporation, the acquiring corporation does not assume the selling corporation's debts and liabilities. (*Ray v. Alad Corp.* (1977) 19 Cal.3d 22, 28.)

Nor do the parties dispute that there are five general exceptions to the rule of successor nonliability, through (1) express or implied assumption of liability; (2) a duty under a merger or de facto merger theory; (3) a duty under a mere continuation theory; (4) a duty under a fraudulent transfer theory; or (5) a duty under a product line successor theory. (*Fisher v. Allis-Chalmers Corp. Product Liability Trust* (2002) 95 Cal.App.4th 1182, 1188.) On summary judgment, each of the above exceptions are "extremely fact sensitive", and requires disproving at least one element of each exception or showing that at least one such element cannot be established. (*Ibid.*)

Express or Implied Assumption of Liability

LC submits that the agreement entered for the acquisition of LI included specific language disclaiming assumption of LI's expenses, debts, obligations, liabilities, claims, demands, fines or penalties arising from the assets or operations acquired. (UMF Nos. 14-16.) Plaintiff raises no argument in opposition. The court finds that there are no triable issues of material fact regarding whether the express or implied assumption of liability exception applies to the rule of successor nonliability, and grants summary adjudication of this issue in favor of LC and against plaintiff.

Merger/De Facto Merger

LC submits that there was no merger because LC purchased LI through a public auction sale of certain assets subject to LI's bankruptcy proceedings. LC argues that because the purchase included some, but not all of LI's assets, there was no merger. (UMF No. 18.) Plaintiff raises no argument in opposition.

As to de facto merger, both parties submit the same five-factor test to determine whether a transaction cast in the form of an asset sale actually achieves the same practical results as a merger: (1) was the consideration paid for the assets solely stock of the purchaser or its parent; (2) did the purchaser continue the same enterprise after the sale; (3) did the shareholders of the seller become shareholders of the purchaser; (4) did the seller liquidate; and (5) did the buyer assume the liabilities necessary to carry on the business of the seller. (*Marks v. Minnesota Mining & Mfg. Co.* (1986) 187 Cal.App.3d 1429, 1436.)

LC submits that three of the five elements are not satisfied: consideration was not paid solely from stock of the purchaser or its parent; nothing in the asset sale made shareholders of LI shareholders of LC; and LI did not immediately liquidate, instead liquidated almost four years later. (UMF Nos. 21-23, 29-31.)

In opposition, plaintiff argues that LC fails to meet its burden on the five-factor test, and more specifically, that LC continued the same enterprise as LI; that, regardless of whether the asset sale required the adoption of shareholders of LI to LC, LC presented no evidence to show that the shareholders were not already the same; that LC failed to support its assertion that the liquidation need be immediate; and that LC failed to provide evidence to demonstrate it did not assume the liabilities necessary to carry on business of LI.

On reply, LC argues that disproving any one element alone must result in summary adjudication, and that plaintiff's failure to negate the inquiry of inadequate consideration must result in summary adjudication. However, LC cites to authority in support that merely holds that at least one element must be negated. (*Fisher*, *supra*, 95 Cal.App.4th at p. 1188.) As the *Fisher* court initially noted, these inquiries are "extremely fact sensitive". (*Ibid.*; *see also Cleveland v. Johnson* (2012) 209 Cal.App.4th 1315, 1334.)[1]

[1] LC further argues that the payment of inadequate consideration is required to find a de facto merger. (*See Franklin v. USX Corp.* (2001) 87 Cal.App.4th 615, 627, citing *Ray*, *supra*, 19 Cal.3d at p. 29.) However, no such holding was made in *Ray*. (*See Cleveland*, *supra*, 209 Cal.App.4th at p.

Inadequate Consideration

Inadequate consideration may be demonstrated where one corporation takes the assets of another without providing any consideration that could be made available to meet the claims of the other creditors[2], or where the consideration consists wholly of shares of the purchaser's stock, which are promptly distributed to the seller's shareholders in conjunction with the seller's liquidation. (*Ray*, *supra*, 19 Cal.3d at pp. 28-29.)

LC submits that it paid $10.5 million in cash and assumed letters of credit worth $900,000, which demonstrates adequate consideration. In support, LC relies on an order by the United States Bankruptcy Court for the Middle District of Georgia approving the purchase. (UMF No. 20.) LC's request for judicial notice of the order is denied to the extent LC seeks to establish, through the order, that such consideration was adequate. (*Steed v. Dept. of Consumer Affairs* (2012) 204 Cal.App.4th 112, 120-121.) The court may not assume the facts and conclusions found in the bankruptcy order are true. LC submits no other evidence to demonstrate how or why $10.5 million in cash and $900,000 in assumption of credit is adequate consideration. (*See Franklin*, *supra*, 87 Cal.App.4th at p. 625 [finding that adequate consideration would ensure that at the time of sale, there are adequate means to satisfy any claims made against the predecessor corporation].)

Other Factors

LC fails to address the factors regarding continuation of enterprise or assumption of liabilities necessary to carry on the business of LI. Further, as to shareholders, though LC's argues that the asset purchase did not require the adoption of LI's shareholders, such is insufficient to demonstrate that LC and LI did not already have common shareholders. (*See Ray*, *supra*, 19 Cal.3d at p. 29.) Additionally, LC concedes that LI liquidated on July 4, 1997.[3] The court finds that LC has failed to meet its burden to demonstrate no triable issues exist to negate the issue of the de facto merger exception.

For the above reasons, summary judgment is denied. Summary adjudication as to the issue of the de facto merger exception to the general rule of successor nonliability is denied.

Mere Continuation

The mere continuation exception requires a showing of one or both of the following factual elements: (1) no adequate consideration was given for the predecessor corporation's assets and made available for meeting the claims of its unsecured

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1334 [reviewing subsequent cases to *Ray* that rely on factors aside from inadequate consideration].)

[2] "It would be manifestly unfair, unjust, and contrary to equity that [a corporation] should thus acquire all of the assets of the other corporation, and its franchise, both to be, and to do, leaving no one to be sued by its creditors, and no property to satisfy its debts and other liabilities, and not itself become responsible for such debts and other liabilities. If it takes the benefit, it must, as has often been said, take the burden, which equitably attaches, with it." (*Malone v. Red Top Cab Co. of Los Angeles* (1936) 16 Cal.App.2d 268, 273.)

[3] Though LC argues that the significant aspect regarding subsequent liquidation of the selling corporation is the immediacy, as plaintiff argues, LC submits no authority in support.

creditors; and (2) one or more persons were officers, directors, or stockholders of both corporations. (*Franklin*, *supra*, 87 Cal.App.4th at p. 626.)

Here, LC again relies on the findings and conclusions of the bankruptcy order from the Middle District of Georgia to demonstrate adequate consideration. As above, the court does not consider the bankruptcy order for such findings and conclusions. LC submits no evidence to demonstrate that its purchase price was sufficient to meet the claims of LI's unsecured creditors. Neither does LC submit evidence addressing whether any persons of LI were officers, directors, or stockholders of LC. Regarding officers and directors, at best, LC submits that "[n]one of the people who were officers or directors of Baseline Capital at the time of that asset purchase are still working for Lummus Corporation." (Declaration of Russell Sutton, ¶ 1.) As to shareholders, LC only affirms that the sole shareholder did not change as a result of the purchase without addressing whether that shareholder was shared between LC and LI. (*See id.*, ¶ 4.) The court finds that LC has failed to meet its burden to demonstrate no triable issues to negate the issue of the mere continuation exception.

Summary adjudication as to the issue of the mere continuation exception to the general rule of successor nonliability is denied.

Fraudulent Transfer

A fraudulent transfer occurs when the transfer of assets of the seller to the purchaser is for the purpose of escaping liability for the seller's debts. (*Ray*, *supra*, 19 Cal.3d at p. 28.) For the same reasons as above, LC has not demonstrated that adequate consideration was given in LC's purchase of LI. However, the uncontroverted evidence before the court on this motion is that the purpose of LC's formation was purely for the purchase of LI's assets. (Declaration of C. Henry Enenmoh, ¶ 2, Ex. A, Deposition of Russell Sutton, pp. 9:24-11:1.) In opposition, plaintiff makes no argument that such purpose constituted a means for LI to escape its debts. The court finds no triable issues regarding the issue of the fraudulent transfer exception.

Summary adjudication as to the issue of the fraudulent transfer exception to the general rule of successor nonliability is granted.

Product Line Successor

Liability may be imposed under the product line successor exception on a showing of the following: (1) the virtual destruction of a plaintiff's remedies against the original manufacturer caused by the successor's acquisition of the business; (2) the successor's ability to assume the original manufacturer's risk-spreading role, and (3) the fairness of requiring the successor to assume a responsibility for defective products that was a burden necessarily attached to the original manufacturer's good will being enjoyed by the successor in the continued operation of the business. (*Ray*, *supra*, 19 Cal.3d at p. 31.)

Virtual destruction of a plaintiff's remedies occurs when assets, trade names and good will are sold, while the seller dissolves. (*See Ray*, *supra*, 19 Cal.3d at p. 31.) Where an injury occurs after the dissolution, a judgment on the claim against a dissolved and

assetless seller, and lack of insurance policy to cover such claims, may constitute a virtual destruction. (*Id.* at pp. 31-32.)

Where the buyer has virtually the same capacity as the seller to estimate the risks of claims for injuries from defects in previously manufactured products, made known to the seller through the acquired resources such as, among other things, physical plants, manufacturing equipment, inventories of raw material, finished goods, and the continued employment of the personnel, such facts may demonstrate the seller's ability to properly plan for insurance coverage or other risk-spreading plans. (*Ray*, *supra*, 19 Cal.3d at p. 33.)

The paramount policy to be promoted by this rule is the protection of otherwise defenseless victims of manufacturing defects and the spreading throughout society of the cost of compensating them. (*Ray*, *supra*, 19 Cal.3d at p. 31.)

LC submits that it purchased only some, but not all of the assets of LI, and that LI continued to exist for four years before administrative dissolution on July 4, 1997, which support a conclusion that the purchase did not destroy a plaintiff's remedies against LI. However, such facts, even undisputed, does not demonstrate that LI retained the capacity to cover such claims. Moreover, it is undisputed that the machine that caused the injury that underlies the present suit was part of the purchase. (Plaintiff's Additional Material Facts, No. 4.) Plaintiff further submits disputed facts that LC continued to sell the machine after acquisition. Plaintiff submits that LC had no employees prior to acquiring LI, and rehired LI's employees after acquisition. Plaintiff submits that though LC has iterated on the machine, the fault of the machine, the interlock mechanism is materially unchanged. The court cannot conclude that there are no triable issues as to the product line successor exception.

Summary adjudication as to the issue of the product line successor exception to the general rule of successor nonliability 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: RTM on 6/13/2022.
(Judge's initials) (Date)