Tentative Rulings for June 8, 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).)

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

19CECG03814 ***Zenith Insurance v. Lummus Corp*** **is continued to Wednesday, June 15, 2022 at 3:30 p.m. in Department 502**

(Tentative Rulings begin at the next page)

Tentative Rulings for Department 502

Begin at the next page

(03)

Tentative Ruling

Re: ***Rocha v. County of Fresno***
Superior Court Case No. 20CECG01193

Hearing Date: June 8, 2022 (Dept. 502)

Motion: Defendant County of Fresno's Motion for Summary Judgment, or in the Alternative Summary Adjudication

Tentative Ruling:

To grant defendant County of Fresno's motion for summary judgment of the plaintiff's entire complaint. (Code Civ. Proc. § 437c.)

Explanation:

The County has moved for summary judgment as to the plaintiff's claims for discrimination and retaliation in violation of FEHA, as well as the claim for failure to prevent discrimination and retaliation, on the ground that plaintiff cannot prove an essential element of his claims, namely that he was competently performing his job at the time of the termination. In addition, the County claims that it had a legitimate, non-discriminatory reason for terminating plaintiff, and plaintiff cannot show that the stated reason for his termination was merely a pretext for unlawful discrimination or retaliation.

In order to establish a prima facie claim for discrimination, "the plaintiff must provide evidence that (1) he was a member of a protected class, (2) he was qualified for the position he sought or was performing competently in the position he held, (3) he suffered an adverse employment action, such as termination, demotion, or denial of an available job, and (4) some other circumstance suggests discriminatory motive." (*Guz v. Bechtel Nat. Inc*. (2000) 24 Cal.4th 317, 355, internal citations omitted.)

"If, at trial, the plaintiff establishes a prima facie case, a presumption of discrimination arises… Accordingly, at this trial stage, the burden shifts to the employer to rebut the presumption by producing admissible evidence, sufficient to 'raise[] a genuine issue of fact' and to 'justify a judgment for the [employer],' that its action was taken for a legitimate, nondiscriminatory reason." (*Id.* at pp. 355–356, internal citations omitted.)

"If the employer sustains this burden, the presumption of discrimination disappears. The plaintiff must then have the opportunity to attack the employer's proffered reasons as pretexts for discrimination, or to offer any other evidence of discriminatory motive. In an appropriate case, evidence of dishonest reasons, considered together with the elements of the prima facie case, may permit a finding of prohibited bias." (*Id.* at p. 356, internal citations omitted.)

"'[T]he plaintiff may establish pretext "either directly by persuading the court that a discriminatory reason more likely motivated the employer or indirectly by showing that the employer's proffered explanation is unworthy of credence."' Circumstantial

evidence of ' "pretense" must be "specific" and "substantial" in order to create a triable issue with respect to whether the employer intended to discriminate' on an improper basis. With direct evidence of pretext, '"a triable issue as to the actual motivation of the employer is created even if the evidence is not substantial." The plaintiff is required to produce "very little" direct evidence of the employer's discriminatory intent to move past summary judgment.'" (*Morgan v. Regents of University of Cal.* (2000) 88 Cal.App.4th 52, 68–69, internal citations omitted.)

"[T]o meet an employer's sufficient showing of a legitimate reason for discharge the discharged employee, to avert summary judgment, must produce 'substantial responsive evidence' that the employer's showing was untrue or pretextual. For this purpose, speculation cannot be regarded as substantial responsive evidence." (*Martin v. Lockheed Missiles & Space Co.* (1994) 29 Cal.App.4th 1718, 1735, internal citations omitted.)

Here, defendant argues that plaintiff cannot meet his burden of establishing a prima facie case for discrimination, as he was not performing competently in his job position at the time he was fired. The County points to the poor performance evaluation that plaintiff received in January of 2019, shortly before he was discharged, which showed that his job performance was unsatisfactory or needed improvement in numerous categories. (Defendant's Undisputed Material Fact No. 14, citing Christiansen decl., ¶ 5 and Appendix of Evidence, Exhibit 11.) Indeed, the performance evaluation does indicate that plaintiff's job performance was substandard, as it stated that plaintiff was having trouble communicating with others, he left work unfinished, he failed to take responsibility for progress reports and status updates, he inappropriately delegated complex tasks to entry level staff, he made multiple errors on financial reports, failed to provide timely reports, and he failed to respond in a professional manner to constructive feedback. (*Ibid*.) Thus, defendant has met its burden of presenting evidence indicating that plaintiff was not performing competently at his job in the months before he was fired.

Plaintiff does not dispute that he received a poor performance evaluation, but he does point out that the evaluation was written by Christiansen, who he alleges was biased against him due to his physical disability. He also notes that the previous performance evaluation he received from Christiansen for the period of November 2016 to November 2017 was excellent, and that Christiansen only started treating him differently after he complained about her to her supervisor. (Rocha decl., ¶¶ 25-27.) He also contends that Christiansen overloaded him with work, but at the same time wrote counseling memos to him for excessive computer time in violation of his workers' compensation restrictions, as well as various other issues. (*Id*. at ¶¶ 47, 51.) He also claims that defendant cannot rely on the evaluation written by the same person that he complained about, and that the fact that the evaluation was written shortly before he was terminated suggests that the evaluation was just a pretext for discrimination and retaliation. He further notes that he was doing so much work that later, after he was fired, the library had to hire an entire accounting firm to do with work he had been tasked to do. (*Id*. at ¶¶ 47, 68.)

However, plaintiff has not pointed to any admissible evidence that tends to show a triable issue of material fact with regard to whether he was performing his job competently at the time of his firing. While he did receive a good performance review

for the period of November 2016 to November 2017, the evidence indicates that his job performance went downhill significantly over the next year, as plaintiff was leaving work unfinished, having communication problems with other staff, improperly delegating tasks to lower level staff, making errors on financial reports, failing to provide timely reports, and failing to respond professionally to feedback. (Defendant's UMF No. 14.) Plaintiff has not provided any evidence that tends to show that he was not having significant problems with his job performance in the final year of his employment. Also, the mere fact that he received the negative performance review shortly before he was fired does not tend to show that he was performing his job competently. It is also notable that the investigation that led to plaintiff's firing was not conducted by Christiansen, and the decision to fire plaintiff was reviewed and approved by a neutral *Skelly* officer. (Defendant's UMF Nos. 16-21.) Therefore, since plaintiff has not shown that there is a triable issue of fact with regard to the question of whether he was performing his job competently at the time of his firing, he cannot prove a prima facie case for discrimination or retaliation.

In any event, even assuming that plaintiff was performing his job competently at the time of his termination, defendant has provided legitimate, non-discriminatory and non-retaliatory reasons for his termination. (*Guz*, *supra*, at pp. 355-356.) As discussed above, the defendant claims that it fired plaintiff due to his insubordination, dishonesty, and poor job performance. (Defendant's UMF Nos. 29-31.) The Order for Disciplinary Action found that (1) plaintiff received a poor evaluation in January of 2019, (2) plaintiff had claimed that his staff had lodged complaints about weekly priority reports, but staff denied making such complaints, (3) the Auditor's Office and CAO made complaints about plaintiff's leadership, supervision, and responsiveness, and plaintiff then blamed his subordinate staff for these problems, and (4) plaintiff failed to communicate openly and in a timely manner with Christiansen regarding work matters, project status, and issues regarding his understanding of basic tasks and expectations of financial reporting. (UMF No. 29.) The County also conducted an investigation, which concluded that plaintiff had made negative and demeaning comments about Christiansen to his staff, including "she's crazy", "she's moody", "she's bitchy", and "she's not fit to be a manager." (UMF Nos. 29-31.) Plaintiff falsely denied these statements and attempted to blame one of his subordinates for them. (*Ibid*.) Plaintiff's dishonesty was a major reason for the decision to terminate his employment. (*Ibid*.) The decision was reviewed and approved by a neutral *Skelly* officer. (UMF No. 19.)

Therefore, the County has met its burden of showing that it had legitimate, non-discriminatory and non-retaliatory reasons for terminating plaintiff. Thus, the burden shifts to plaintiff to provide specific and substantial evidence that tends to show that the County's claimed legitimate reasons for terminating him were just a pretext for discrimination or retaliation. "[T]o avoid summary judgment, an employee claiming discrimination must offer substantial evidence that the employer's stated nondiscriminatory reason for the adverse action was untrue or pretextual, or evidence the employer acted with a discriminatory animus, or a combination of the two, such that a reasonable trier of fact could conclude the employer engaged in intentional discrimination." (*Hersant v. Department of Social Services* (1997) 57 Cal.App.4th 997, 1004–1005.)

"Nor can the employee simply show the employer's decision was wrong, mistaken, or unwise. Rather, the employee '"must demonstrate such weaknesses, implausibilities,

inconsistencies, incoherencies, or contradictions in the employer's proffered legitimate reasons for its action that a reasonable factfinder *could* rationally find them 'unworthy of credence,' [citation], and hence infer 'that the employer did not act for the [... asserted] non-discriminatory reasons.' [Citations.]" [Citations.]'" (*Horn v. Cushman & Wakefield Western, Inc.* (1999) 72 Cal.App.4th 798, 807, italics in original, quoting *Hersant, supra*, at p. 1005.) Moreover, the employee must point to more than just speculation or conjecture in order to create a triable issue of fact with regard to the employer's motives. (*Crozier v. United Parcel Service, Inc*. (1983) 150 Cal.App.3d 1132, 1138-1139, disapproved on other grounds by *Foley v. Interactive Data Corp*. (1988) 47 Cal.3d 654.)

Here, plaintiff claims that defendant's proffered reasons for terminating him lack credibility because defendant principally relies on the negative performance evaluation written by Christiansen, who is the same person that plaintiff alleges was motivated to discriminate and retaliate against him after he made a complaint about her to her supervisor. However, even if Christiansen was biased against plaintiff, defendant not only relied on the poor evaluation given by Christiansen, but also the investigation conducted by Raman Bath, which concluded that plaintiff had been making derogatory and disrespectful comments about Christiansen to his subordinates and then had lied to the investigator about making those comments. (UMF Nos. 30.) The investigation was based on interviews with several other employees, who confirmed that plaintiff had made disrespectful and derogatory statements about Christiansen. (*Ibid*.)

Thus, defendant's proffered reasons for terminating plaintiff were based on more than just the evaluation written by Christiansen, and were also based on the investigation by Bath, who had no apparent reason to retaliate against plaintiff. Plaintiff speculates that Bath may also have been motivated to make negative statements about him in order to please Christiansen, but he offers no substantial, admissible evidence to support his claim.[1] He also claims that one of the other employees interviewed by Bath, Rachel Acosta, was biased against him because he had given her a bad performance review. Yet Bath's investigation found that several employees, not just Acosta, had contradicted plaintiff's statements. Thus, plaintiff has failed to point to any substantial, admissible evidence that tends to show that defendant's proffered reasons for firing him were just a pretext for discrimination or retaliation.

Plaintiff contends that the fact that he was terminated soon after he requested an accommodation and made a complaint about Christiansen shows that defendant's true reasons for terminating him were discriminatory or retaliatory. However, temporal proximity alone is not enough to show that an employer had illegal reasons for the adverse employment action once the employer has offered a facially legitimate reason for the action. (*Arteaga v. Brink's, Inc.* (2008) 163 Cal.App.4th 327, 353.)

"This is not to say that temporal proximity is never relevant in the final step of the *McDonnell Douglas* test. In the classic situation where temporal proximity is a factor, an employee has worked for the same employer for several years, has a good or excellent performance record, and then, after engaging in some type of protected

[1] Defendant has objected to most of plaintiff's evidence in support of the opposition. The court intends to overrule all of the objections except objections 23, 25, 43, 52, 56, 57, 58, 62, 63, and 65, which will be sustained.

activity—disclosing a disability—is suddenly accused of serious performance problems, subjected to derogatory comments about the protected activity, and terminated. In those circumstances, temporal proximity, *together* with the *other* evidence, may be sufficient to establish pretext." (*Id.* at pp. 353–354, italics in original, internal citations omitted.)

Here, contrary to plaintiff's contention, the timeline does not suggest that defendant had an illegal reason for terminating him. According to the evidence, plaintiff filed a worker's compensation claim regarding an injury that occurred on June 13, 2018. (UMF No. 36.) The County conducted an ergonomic evaluation of his workstation and engaged in the interactive process regarding plaintiff's disability. (UMF Nos. 37, 38.) The County also adjusted his workload and instructed him to reduce his computer time to accommodate his disability. (UMF No. 39.)

Plaintiff also made a complaint about Christiansen to Landano in August of 2018, which stated that Christiansen had treated him unfairly because he is male, that she denied him time off after he made his worker's compensation claim, and that she had increased his workload. (UMF No. 49.) The County hired an outside investigator to investigate his complaint. (UMF No. 50.) The investigator concluded that plaintiff's complaints were not supported by the evidence. (*Ibid*.)

However, plaintiff did not receive the negative performance evaluation until January 14, 2019, about five months after he made the complaint about Christiansen and seven months after he made his worker's compensation claim. (UMF No. 40.) Plaintiff was also being investigated by Bath from May of 2018 to January of 2019 for reports that he was insubordinate and was not performing competently at his job. (UMF No. 42.) Plaintiff was terminated by the County in March 8, 2019 based on Bath's report, as well as the negative performance review written by Christiansen. (UMF Nos. 43-47.) The decision to terminate plaintiff was reviewed and approved by a neutral *Skelly* officer. (UMF No. 45.)

Thus, the timing of the plaintiff's termination is not so close to the time when he requested an accommodation of his disability or made the complaint about Christiansen as to suggest that the County had an improper motive for firing him. Also, even if the County did take adverse employment actions against plaintiff shortly after he made the request and complaint, there is no other evidence that would tend to support an inference that the County intended to discriminate or retaliate against him. Plaintiff seems to be simply speculating that Christiansen, Bath, or other County officials had improper reasons for terminating him. Yet such speculation or conjecture is not enough to raise a triable issue of material fact with regard to whether the defendant had an improper motive for firing him. Therefore, defendant is entitled to summary adjudication of the discrimination and retaliation claims.

Finally, since plaintiff cannot prevail on his discrimination and retaliation claims, his cause of action for failure to prevent discrimination and retaliation must also fail. A claim for failure to prevent discrimination or retaliation in violation of FEHA cannot stand unless there has first been a finding that defendant engaged in discrimination or retaliation. (*Dickson v. Burke Williams, Inc*. (2015) 234 Cal.App.4th 1307, 1314-1316; *Trujillo v. North County Transit Dist.* (1998) 63 Cal.App.4th 280, 289.) Since defendant is entitled to

summary adjudication of the discrimination and retaliation causes of action, it is also entitled to summary adjudication of the failure to prevent discrimination and retaliation claims.

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 6/7/2022.
(Judge's initials) (Date)

(17) **Tentative Ruling**

Re: ***Malaga County Water District v. Central Valley Regional Water Quality Control Board***
Superior Court Case No. 16CECG03036

Hearing Date: December 12, 2018 (Dept. 502)

Motions: Malaga's Motion for Attorney's Fees

Tentative Ruling:

To deny Malaga's Motion for Attorney's Fees.

Explanation:

Petitioner Malaga County Water District (Malaga) seeks attorney's fees under Code of Civil Procedure section 1021.5 which codifies the private attorney general doctrine, providing an exception to the "American rule" that each party bears its own attorney fees. (*Olson v. Automobile Club of Southern California* (2008) 42 Cal.4th 1142, 1147.) The fundamental objective of the private attorney general doctrine is to encourage suits enforcing important public policies by providing substantial attorney fees to successful litigants in such cases. (*Graham v. DaimlerChrysler Corp*. (2004) 34 Cal.4th 553, 565 (*Graham*).)

Under section 1021.5, the court may award attorney fees to (1) a successful party in any action (2) that has resulted in the enforcement of an important right affecting the public interest (3) if a significant benefit has been conferred on the general public or a large class of persons, and (4) the necessity and financial burden of private enforcement are such as to make the award appropriate. (*Ibid*.) The burden is on the claimant for the award of attorney's fees to establish each prerequisite to an award of attorney's fees under Code of Civil Procedure section 1021.5. (*Ebbetts Pass Forest Watch v. Department of Forestry and Fire Protection* (2010) 187 Cal. App. 4th 376, 381.)

1. Successful Party

Courts take "a broad, pragmatic view of what constitutes a 'successful party' " for purposes of a section 1021.5 fee award (*Graham*, *supra*, 34 Cal.4th at p. 565) and the court must critically analyze the surrounding circumstances of the litigation and pragmatically assess the gains achieved by the action." (*Ebbetts Pass Forest Watch v. Department of Forestry & Fire Protection*, *supra*, 187 Cal.App.4th at p. 382.)

Here, both this court and the appellate court found Malaga was not afforded a fair trial pursuant to Code of Civil Procedure section 1094.5, subdivision (b) due to the fact that Respondent's hearing regulations were not adopted pursuant to the Administrative Procedures Act. This court subsequently determined that these regulations prejudiced Malaga. Accordingly, Malaga is the successful party.

2. Important Public Right/ Significant Benefit Conferred

In *Woodland Hills Residents Association, Inc. v. City Council of Los Angeles* (1979) 23 Cal.3d 917, the California Supreme Court stated that constitutional rights are "important" for purposes of section 1021.5. (*Id*. at p. 935.) In its 1995 recommendations, the Law Revision Commission repeatedly stressed that one of the purposes of its proposed revisions to the APA was to "[i]mprove fairness of state agency hearing procedures" and to provide fundamental due process. (Recommendation: Administrative Adjudication by State Agencies (Jan. 1995) 25 Cal. Law Revision Com. Rep. (1995) pp. 55, 69–70, 81, 98–99.) Fundamental due process is a constitutional right. California courts have previously ruled that fees are warranted under section 1021.5 where a plaintiff secures relief compelling an administrative agency to comply with the APA because "an important public right is [thereby] implicated." (*Ligon v. State Personnel Bd*. (1981) 123 Cal.App.3d 583, 592.)

3. Necessity of Private Enforcement

Because the action proceeded against the governmental agencies that were responsible for creating and enforcing the deficient procedures, it is evident that private, rather than public, enforcement was necessary. (*Conservatorship of Whitley* (2010) 50 Cal.4th 1206, 1215 (*Whitley*); *Woodland Hills Residents Assn., Inc. v. City Council*, *supra*, 23 Cal.3d at p. 941.)

4. Financial Burden of Private Enforcement

The "financial burden of private enforcement" element concerns the costs of litigation and any offsetting financial benefits that the litigation yields or reasonably could have been expected to yield. (*Whitley*, *supra*, 50 Cal.4th at p. 1215.) As a general proposition, an award of attorney fees is appropriate when the cost of the claimant's legal victory transcends his or her personal interest and places a burden on the claimant out of proportion to his or her individual stake in the matter. (*Ibid*.)

In evaluating the element of financial burden, "the inquiry before the trial court [is] whether there were 'insufficient financial incentives to justify the litigation in economic terms.' " (*Summit Media LLC v. City of Los Angeles* (2015) 240 Cal.App.4th 171, 193 (*Summit Media*).) If the plaintiff had a "personal financial stake" in the litigation "sufficient to warrant [the] decision to incur significant attorney fees and costs in the vigorous prosecution" of the lawsuit, an award under section 1021.5 is inappropriate. (*Summit Media*, *supra*, 240 Cal.App.4th at pp. 193-194.) " 'Section 1021.5 was not designed as a method for rewarding litigants motivated by their own pecuniary interests who only coincidentally protect the public interest.' " (*Davis v. Farmers Insurance Exchange* (2016) 245 Cal.App.4th 1302, 1329 (*Davis*).)

Malaga takes the position that it had "no choice but to litigate this case" in the face of the "baseless" $1,036,728 fine assessed by Respondent, but that avoidance of the fine did not actually provide a "direct, immediate and substantial monetary benefit" to Malaga. The Court disagrees. Prior to filing this action Malaga was subject to a $1,036,728 civil penalty. As a result of Malaga's suit, it is no longer subject to a $1,036,728 civil penalty. The elimination of the penalty provides a real, direct and immediate

financial benefit, even though the administrative proceeding will be reconvened and another, potentially larger, penalty could issue after a new hearing.

As our Supreme Court explained in *Whitley*, "courts have long construed this language to mean, among other things, that a litigant who has a financial interest in the litigation may be disqualified from obtaining such fees when expected or realized financial gains offset litigation costs." (*Whitley*, *supra*, 50 Cal.4th at p. 1211.) "[T]he purpose of section 1021.5 is not to compensate with attorney fees only those litigants who have altruistic or lofty motives, but rather all litigants and attorneys who step forward to engage in public interest litigation when there are insufficient financial incentives to justify litigation in economic terms." (*Ibid*.)

A cash payout is not a prerequisite for finding a pecuniary interest. In *Summit Media*, the plaintiff was engaged in the billboard business. It sued a municipality and other billboard operators to set aside a settlement agreement that placed the plaintiff at a competitive disadvantage, would have damaged the plaintiff's goodwill with its customers, and, if enforced, would have caused the plaintiff to suffer irreparable injury to its business. (*Summit Media*, *supra*, 240 Cal.App.4th at pp. 175, 188-189.) Based on this record, the Court of Appeal upheld the trial court's finding that the plaintiff's financial stake in the litigation was sufficient to warrant its decision to incur the cost of litigation. (*Id*. at pp. 193-194.) Similarly, in *Millview County Water District* v. *State Water Resources Control Board* (2016) 4 Cal.App.5th 759, the court focused on "a party's financial incentives to participate in litigation," not merely the actual financial recovery. (*Id*. at p. 772.) Although the plaintiffs in that case did not seek monetary recovery, they successfully challenged a cease and desist order that would have drastically restricted the diversion of water under the plaintiffs' water rights claim. (*Id*. at p. 762.) Had the plaintiffs taken no action, the entry of the order would have dramatically reduced the value of their assets, providing "ample financial incentive for them to challenge" the order. (*Id*. at p. 771.)

Malaga's financial incentive of $1,036,728 comfortably exceeds the $456,935.25 cost of this litigation. The court finds that the financial burden of private enforcement in this case does not warrant subsidizing Malaga's attorneys.

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 6/7/2022.
(Judge's initials) (Date)

(27)

Tentative Ruling

Re: ***Bhatia v. Chenot***
Superior Court Case No. 20CECG00173

Hearing Date: June 8, 2022 (Dept. 502)

Motion: By Plaintiffs for Default Judgment

Tentative Ruling:

To deny, without prejudice.

Explanation:

A "default judgment … can be entered only upon proof to the court of the damage sustained." (*Taliaferro v. Hoogs* (1963) 219 Cal.App.2d 559, 560; see also Code Civ. Proc., § 585, subd. (b) ["The court shall … render judgment in the plaintiff's favor … not exceeding the amount stated in the complaint … as appears by the evidence to be just."].)

In addition, "'"[s]pecial damages" refers to out-of pocket losses that can be documented by bills, receipts, cancelled checks, and business and wage records. Special damages generally include medical and related expense, loss of income, and the loss or cost of services. [¶] "General damages" refers to damages for harm or loss such as pain, suffering, emotional distress, and other forms of detriment that are sometimes characterized as 'subjective' or not directly quantifiable.' [Citation]" (*Beeman v. Burling* (1990) 216 Cal.App.3d 1586, 1599.)

Furthermore, "damages must be proved in the trial court before the default judgment may be entered[]," (*Uva v. Evans* (1978) 83 Cal.App.3d 356, 364), and "[t]he amount of general damages awarded is usually correlated to the special damages proved." (*Jones v. Interstate Recovery Service* (1984) 160 Cal.App.3d 925, 929.) Accordingly, "conclusory" demands and "unintelligible" documents attached to a declaration are insufficient default prove-up evidence. (*Kim v. Westmoore Partners, Inc*. (2011) 201 Cal.App.4th 267, 288.)

As already noted in the court's March 3, 2021 denial of plaintiffs' first attempt for default judgment, evidence must be provided to support plaintiffs' request for special and general damages. Plaintiffs' current application is supported only by plaintiffs' joint declaration and provides only conclusory support for the requested damages. In addition, although the declaration references several exhibits, those exhibits were not attached in the version filed with the court. Consequently, plaintiffs have not provided documentary evidence of their out-of-pocket losses (i.e., special damages) nor have they provided a basis for their requested general damages.

Therefore, plaintiffs' have not proved their damages sufficient to support a default judgment at this time.

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 6/7/2022.
(Judge's initials) (Date)