Tentative Rulings for October 21, 2021
Department 503

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).)

20CECG00112 ***Fay Servicing LLC v. Lozano et al.*** **(Dept. 503)**

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

14CECG02461 ***Anderson v. Western Health Resources*** **is continued to Tuesday, December 7, 2021 at 3:30 p.m. in Dept. 503**

19CECG04621 ***Martin v. Atwal*** **is continued to Thursday, December 16, 2021 at 3:30 p.m. in Dept. 503**

(Tentative Rulings begin at the next page)

Tentative Rulings for Department 503

Begin at the next page

(20) **Tentative Ruling**

Re: ***Lundquist et al. v. American Honda Motor Co., Inc.***
Superior Court Case No. 19CECG00841

Hearing Date: October 21, 2021 (Dept. 503)

Motion: Plaintiff's Motion for Order Striking and/or Reducing Costs (Taxing Costs)

Tentative Ruling:

To strike the memorandum of costs filed by American Honda Motor Co., Inc. ("Honda") on August 17, 2021. As a result of the October 6, 2021 order granting plaintiffs' motion for new trial, Honda is not a prevailing party entitled to costs at this time. (Code Civ. Proc., § 1032, subd. (b).)

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: KAG on 10/14/2021 .
(Judge's initials) (Date)

(34)

Tentative Ruling

Re: ***American Express National Bank v. Robert C. Smith***
Superior Court Case No. 20CECG03001

Hearing Date: October 21, 2021 (Dept. 503)

Motion: By Plaintiff to Deem Requests for Admission Admitted

Tentative Ruling:

To grant plaintiff's motion to deem requests for admissions admitted, unless defendant serves responses, in substantial compliance with Code of Civil Procedure sections 2033.210, 2033.220, and 2033.240, before the hearing on this motion. (Code Civ. Proc., § 2033.280.)

To impose monetary sanctions in favor of plaintiff and against defendant in the amount of $360, payable to the Michael & Associates, PC law firm, within 30 days of the clerk's service of the minute order. (Code Civ. Proc., § 2033.280, subd. (c).)

Explanation:

Where a party fails to timely respond to a propounding party's request for admissions, the court must grant the propounding party's motion requesting that matters be deemed admitted, unless it finds that the party to whom the requests were directed has served, prior to the hearing on the motion, a proposed response that is substantially in compliance with Code of Civil Procedure section 2033.220. (Code Civ. Proc., § 2033.280, subd. (c); see also *St. Mary v. Superior Court* (2014) 223 Cal.App.4th 762, 778.) "Substantial compliance" means compliance with respect to " 'every reasonable objective of the statute.' [Citation.]" (*Id*. at p. 779.) Where the responding party serves its responses before the hearing, the court "has no discretion but to deny the motion." (*Id*. at p. 776.)

In the case at bench, there is no evidence that responses have been served since the filing of this motion. Unless responses are served before the hearing, the motion is granted and the requests are deemed admitted.

Sanctions

The court must impose a monetary sanction against the party or attorney, or both, whose failure to respond necessitated the motion to deem matters admitted. (Code Civ. Proc., § 2033.280, subd. (c).)

Plaintiff seeks $360 in sanctions for one hour of time spent on the motion and the $60 filing fee. (Keith Decl. ¶ 5.) Plaintiff's request for sanctions is granted. Defendant is ordered to pay $360, to the Michael & Associates, PC law firm, within 30 days of the clerk's mailing of the minute order.

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: KAG on 10/14/2021 .
(Judge's initials) (Date)

(5)

Tentative Ruling

Re: ***Percoats et al. v. Panoche Water District***
Superior Court Case No. 18CECG01651

Hearing Date: October 21, 2021 (Dept. 503)

Motion: By Defendant to Compel Deposition Answers by Non-Party Witness

Tentative Ruling:

To deny the motion to compel deposition answers of non-party witness Dennis Falaschi, on the grounds that Mr. Falaschi's assertion of the privilege against self-incrimination is valid. (*People* v. *Williams* (2008) 43 Cal.4th 584.)

Explanation:

Background

On or about 2006, plaintiffs were hired by the defendant Panoche Water District ("District") as "canal men." As such, they operated, maintained, produced, stored, transmitted and distributed water for irrigation, both domestic and industrial purposes. Plaintiffs allege that, prior to November 2016, the District violated wage and hour laws by not paying them overtime for work over 8 hours a day and/or work over 40 hours a week.

On May 10, 2018, plaintiffs filed a complaint. On August 26, 2019, plaintiffs filed a first amended complaint. On February 3, 2020, plaintiffs filed a second amended complaint, alleging two causes of action for breach of contract and retaliation in violation of Labor Code section 1102.5. On March 9, 2020, the District filed an answer.

On May 19, 2021, the District deposed Dennis Falaschi, former General Manager of the District. Mr. Falaschi refused to answer 32 questions at the deposition by asserting his Fifth Amendment privilege against self-incrimination on the grounds that he is a defendant in Fresno County Superior Court Case No. F18901227 and has been charged with four counts of embezzlement and one count of improper disposal of hazardous waste. The transcript was certified on June 3, 2021.

On July 19, 2021, the District timely filed a motion to compel deposition testimony pursuant to Code of Civil Procedure section 2025.480. (See Notice of Motion, p. 2:6.) On August 26, 2021, an amended notice was filed setting the hearing on the date granted pursuant to an ex parte application seeking an order shortening time. Opposition was filed on September 16, 2021 by Mr. Falaschi's counsel. The Court exercised its discretion and considered the late opposition.

The Court then requested that Mr. Falaschi's counsel submit a response to the separate statement of questions in dispute in the same format as the moving party's

separate statement to enable the Court to determine whether or not the privilege should stand. The separate statement was submitted on October 14, 2021.

Applicable Law

The Fifth Amendment privilege against self-incrimination may be asserted by any party or witness in a discovery proceeding preventing disclosure of information that might tend to incriminate him or her under federal or state law. (*Warford v. Medeiros* (1984) 160 Cal.App.3d 1035, 1043.) The privilege may be invoked at a deposition. *(Marriage of Hoffmeister* (1984) 161 Cal.App.3d 1163, 1171.) However, the privilege cannot be invoked in a "blanket" fashion. (See *Warford*, *supra*, 160 Cal.App.3d at 1045.) The privilege must be asserted as to particular questions. (*Ibid.*) Importantly, the burden falls upon the witness to show that his testimony would tend to incriminate him. (*Warford*, *supra*, 160 Cal.App.3d at 1045; see also *Marriage of Sachs* (2002) 95 Cal.App.4th 1144, 1151-1152.)

Merits

The District submits that Mr. Falaschi waived his privilege against self-incrimination by submitting a declaration in support of the District's motion for summary adjudication on July 17, 2020, citing *Brown v. Sup.Ct. (Boorstin)* (1986) 180 Cal.App.3d 701, 712. However, the privilege extends to "compelled testimony." (See *Marriage of Hoffmeister*, *supra*, 161 Cal.App.3d at 1171.) But, Mr. Falaschi was not compelled to provide a declaration in the same manner that he was compelled to provide deposition testimony via service of a deposition subpoena pursuant to Code of Civil Procedure sections 2020.010, subdivision (b), and 2025.280, subdivision (b). Therefore, the Court finds that he has not waived his privilege.

Evidence Code section 404 states:

> Whenever the proffered evidence is claimed to be privileged under Section 940, the person claiming the privilege has the burden of showing that the proffered evidence might tend to incriminate him; and the proffered evidence is inadmissible unless it clearly appears to the court that the proffered evidence cannot possibly have a tendency to incriminate the person claiming the privilege.

Accordingly, the burden falls upon Mr. Falaschi.

While it is true that blanket objections are unacceptable (see *Warford v. Medeiros*, *supra*, 160 Cal.App.3d at 1045), the separate statement filed in opposition provides an explanation for the assertion of the privilege as to *each* question. Therefore, the trial court must undertake a "particularized inquiry" with respect to each specific claim of privilege to determine whether the witness has met his burden. (*Ibid.*)

Mr. Falaschi has been charged with multiple violations of Penal Code section 424, subdivision (a)(1), a felony relating to his position with the District. Penal Code section 424 states:

(a) Each officer of this state, or of any county, city, town, or district of this state, and every other person charged with *the receipt, safekeeping, transfer, or disbursement of public moneys*, who either:

1. Without authority of law, appropriates the same, or any portion thereof, to his or her own use, or to the use of another; or,

2. Loans the same or any portion thereof; makes any profit out of, or uses the same for any purpose not authorized by law; or,

3. Knowingly keeps any false account, or makes any false entry or erasure in any account of or relating to the same; or,

4. Fraudulently alters, falsifies, conceals, destroys, or obliterates any account; or,

5. Willfully refuses or omits to pay over, on demand, any public moneys in his or her hands, upon the presentation of a draft, order, or warrant drawn upon these moneys by competent authority; or,

6. Willfully omits to transfer the same, when transfer is required by law; or,

7. Willfully omits or refuses to pay over to any officer or person authorized by law to receive the same, any money received by him or her under any duty imposed by law so to pay over the same;--

Is punishable by imprisonment in the state prison for two, three, or four years, and is disqualified from holding any office in this state.

(b) As used in this section, "public moneys" includes the proceeds derived from the sale of bonds or other evidence or indebtedness authorized by the legislative body of any city, county, district, or public agency.

(c) This section does not apply to the incidental and minimal use of public resources authorized by Section 8314 of the Government Code.

(Emphasis added.)

The test for the trial court, as set forth in *People v. Williams* (2008) 43 Cal.4th 584, is: "To deny an assertion of the privilege against self-incrimination, the judge must be perfectly clear, from a careful consideration of all the circumstances in the case, that the witness is mistaken, and that the answer cannot possibly have a tendency to incriminate." (*Id.* at p. 614.) Here, the witness provides a valid explanation for his assertion of privilege as to each question asked. (See Separate Statement in Opposition.) Therefore, the motion is denied.

Pursuant to California Rules of Court, Rule 3.1312, subd. (a) and Code of Civil Procedure section 1019.5, subd. (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: KAG on 10/18/2021.
(Judge's initials) (Date)

(27)

Tentative Ruling

Re: ***In re: Iris Estela Moso***
Superior Court Case No. 21CECG01412

Hearing Date: October 21, 2021 (Dept. 503)

Motion: Petition to Compromise Minor's Claim

Tentative Ruling:

To grant. The Court intends to sign the proposed orders. No appearances necessary.

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: KAG on 10/19/2021.
(Judge's initials) (Date)

(35)

Tentative Ruling

Re:	***Rogers v. Matos et al.*** Superior Court Case No. 21CECG00515
Hearing Date:	October 21, 2021 (Dept. 503)
Motion:	By Defendant Starbucks Corporation for an Order to Compel Arbitration

Tentative Ruling:

To grant and order plaintiff to arbitrate his claims against defendants. To stay the action pending completion of arbitration.

Explanation:

In moving to compel arbitration, a defendant must prove by a preponderance of evidence the existence of the arbitration agreement and that the disputes are covered by the agreement. The party opposing the motion must then prove by a preponderance of evidence that a ground for denial of the motion exists (e.g., fraud, unconscionability, etc.) (*Rosenthal v. Great Western Fin'l Securities Corp.* (1996) 14 Cal.4th 394, 413-414; *Hotels Nevada v. L.A. Pacific Ctr., Inc.* (2006) 144 Cal.App.4th 754, 758; *Villacreses v. Molinari* (2005) 132 Cal.App.4th 1223, 1230.)

Written Agreement to Arbitrate

Unless there is a dispute over authenticity, the mere recitation of the terms of the governing provision is sufficient for a party to move to compel arbitration. (*Sprunk v. Prisma LLC* (2017) 14 Cal.App.5th 785, 793.) The petitioner has the burden of proving the existence of a valid arbitration agreement. (*Pinnacle Museum Tower Assn v. Pinnacle Market Development (US), LLC* (2012) 55 Cal.4th 223, 236.) A party opposing arbitration has the burden of showing that the arbitration provision cannot be interpreted to cover the claims in the complaint. (*Aanderud v. Superior Court* (2017) 13 Cal.App.5th 880, 890.)

Here, defendant provided a copy of the written agreement, and explained the process by which the agreement was generated, reviewed, and executed. (Daly Decl., ¶¶ 6-16 & Exs. A-H.)[1] This is sufficient evidence to support the present petition. (*Cox v. Bonni* (2018) 30 Cal.App.5th 287, 301.) Plaintiff argues that he signed no such agreement, but his declaration does not support his argument. (Rogers Decl., ¶¶ 6-9.) Rather, plaintiff

[1] Each of plaintiff's objections to each paragraph of the Declaration of Kathryn Daly based on hearsay, multiple levels of hearsay, lack of foundation, conclusory evidence, contradiction of sworn testimony, improper opinion evidence, lack of authentication, vagueness, irrelevance, lack of evidentiary support, lack of personal knowledge and untimely submission of evidence is overruled. Counsel is cautioned against making objections without substantial justification. (*See Reid v. Google, Inc.* (2010) 50 Cal.4th 512, 532-533.)

seems to admit that he did sign such a document. (*Id.*, ¶ 9.) The court finds that there was a written agreement to arbitrate.

Enforceability of Arbitration Agreement

Plaintiff asserts that he never knowingly entered into the arbitration agreement. Plaintiff further asserts that the arbitration agreement is both procedurally and substantively unconscionable, rendering the agreement invalid.

Execution of Agreement. The failure to read or understand an arbitration agreement is generally no defense to enforcement. (*Bolanos v. Khalatian* (1991) 231 Cal.App.3d 1586, 1589-1590 [finding respondent knowingly signed arbitration agreement, despite having declared equivalent education to a fifth grader, not reading English, reading Spanish with substantial difficulty, not recalling signing document, recalling receipt of several documents at once, and receiving no explanation of documents.) Plaintiff's statement that he was required to fill out and agree to paperwork to be hired by defendant, including a mandatory arbitration agreement as a condition of employment, does not excuse a failure to read or understand the agreement. (*See Armendariz v. Foundation Health Psychcare Services., Inc.* (2000) 24 Cal.4th 83, 110-111.) Plaintiff does not argue that he was forced to take employment with defendant such that he was forced into the condition of employment. Rather, plaintiff declares: "I really wanted the position with Starbucks and believed it was going to be a great fit for me, in part, because there was flexibility with scheduling that would allow me to attend school while working." (Rogers Decl., ¶ 6.)

Unconscionability. If the court finds as a matter of law that a contract or any portion of it was unconscionable at the time it was made, the court may refuse to enforce it, or may enforce the contract without the unconscionable provisions, or limit their application to avoid any unconscionable result. (Civ. Code, § 1670.5, subd. (a).) There are two prongs considered in this analysis: procedural unconscionability and substantive unconscionability. Both must be present for a court to exercise its discretion to refuse to enforce an arbitration agreement under the doctrine of unconscionability. (*Armendariz*, *supra*, 24 Cal.4th at p. 113.) But they need not be present in equal amounts; essentially a sliding scale is used, and where there is substantive unconscionability, less procedural unconscionable need be shown and vice versa. (*Id.* at pp. 113-114.)

Plaintiff contends that the arbitration agreement is procedurally unconscionable because it is a contract of adhesion—he was provided the arbitration agreement on a take-it-or-leave-it basis. Plaintiff also argues that he was made to execute the agreement under economic duress. Plaintiff provides no evidence in support of either of these positions.

A contract of adhesion is one imposed and drafted by the party of superior bargaining strength, and relegates to the subscribing party only the opportunity to adhere to the contract or reject it. (*Mission Viejo Emergency Medical Associates v. Beta Healthcare Group* (2011) 197 Cal.App.4th 1146, 1159.) Plaintiff states that he was made to agree with the arbitration agreement, which implies that the arbitration agreement was provided on a take-it-or-leave-it basis. (Rogers Decl., ¶¶ 6-9.) Even so, adhesion does not *per se* render the arbitration agreement unenforceable, since such contracts

"are an inevitable fact of life for all citizens, businessman and consumer alike." (*Graham v. Scissor-Tail, Inc.* (1981) 28 Cal.3d 807, 817-818.) A finding of procedural unconscionability does not mean that a contract will not be enforced, but rather that courts will scrutinize the substantive terms of the contract to ensure they are not manifestly unfair or one-sided. (*Baltazar v. Forever 21, Inc.* (2016) 62 Cal.4th 1237, 1244.) In other words, there must also be substantive unconscionability. (*Armendariz*, *supra*, 24 Cal.4th at p. 114.)

In the employment context specifically, to avoid a finding of substantive unconscionability, the agreement must include the following five minimum requirements designed to provide necessary safeguards to protect unwaivable statutory rights where important public policies are implicated: (1) a neutral arbitrator; (2) adequate discovery; (3) a written, reasoned, opinion from the arbitrator; (4) identical types of relief as available in a judicial forum; and (5) that undue costs of arbitration will not be placed on the employee. (*Armendariz, supra,* 24 Cal.4th at p. 102.)

Here, the arbitration agreement satisfies the *Armendariz* factors. (Daly Decl., ¶ 13 & Ex. F.) The arbitration agreement contemplates a mutually agreed-upon arbitrator. (*Ibid.*) The arbitration agreement provides for baseline discovery, which can be expanded by the arbitrator. (*Ibid.*) The arbitration agreement commands the arbitrator to issue an award in writing, setting forth the factual and legal bases for the decision. (*Ibid.*) The arbitration agreement allows the arbitrator to order remedies equivalent to a court of competent jurisdiction, and restricts the arbitrator from authorizing remedies not available from a court. (*Ibid.*) Finally, the costs of arbitration are covered by defendant, except plaintiff's portion of any applicable filing fee. (*Ibid.*)

In opposition, plaintiff argues that the arbitration agreement does not provide for adequate discovery. The arbitration agreement only provides for three interrogatories, 25 requests for production of documents, and two depositions, which plaintiff asserts is both oppressive and prejudicial. (Madjidi Decl., ¶ 3.) Plaintiff notes that the present action is filed against two entities, and three individuals, and the deposition provision alone precludes plaintiff from taking deposition of all three individuals. (*Ibid.*)

Limitations on discovery, including the number of depositions, does not mean inadequate discovery. (*Mercuro v. Superior Court* (2002) 96 Cal.App.4th 167, 184.) The arbitration agreement permits the arbitrator to authorize further discovery according to the needs of the parties. (Daly Decl., ¶ 13 & Ex. F.) Such a provision is sufficient to satisfy the adequate discovery factor. (*Mercuro*, *supra*, 96 Cal.App.4th at p. 184; *see also Roman v. Superior Court* (2009) 172 Cal.App.4th 1462, 1475-1476.)

Plaintiff further argues substantive unconscionability based on the arbitration agreement's limitation of a Private Attorneys General Act ("PAGA") claim. An employee's right to bring a PAGA action is unwaivable. (*ZB, N.A. v. Superior Court* (2019) 8 Cal.5th 175, 181, citing *Iskanian v. CLS Transportation Los Angeles, LLC* (2014) 59 Cal.4th 348, 383-384.)

Plaintiff fails to demonstrate the applicability of such a position in this case. Plaintiff does not bring a PAGA action seeking civil penalties for Labor Code violations committed against him and other aggrieved employees by bringing, on behalf of the State, a

representative action against his employer. (Lab. Code, § 2699, subd. (a).) In any event, to the extent that the arbitration agreement might improperly waive a right to bring a PAGA claim, the arbitration agreement provides for severability. (Daly Decl., ¶ 13 & Ex. F; Civ. Code, § 1670.5, subd. (a); *Ramos v. Superior Court* (2018) 28 Cal.App.5th 1042, 1068.)

As a result, the court finds that there is a valid written agreement to arbitrate.

Covered Disputes

The arbitration agreement states:

> Starbucks and I agree to use binding individual arbitration to resolve any "Covered Claims" that arise between me and Starbucks, its subsidiaries and related companies, and/or any current or former employee of Starbucks or a related company (collectively, "Starbucks"). "Covered Claims" are those brought under any statute, local ordinance, or common law relating to my employment, including those concerning any element of compensation, harassment, discrimination, retaliation, recovery of bonus or relocation benefits, leaves of absence, accommodations, or termination of employment.

(Daly Decl., Ex. F.)

Here, the complaint comprises thirteen causes of action. The first six causes of action arise under the Fair Employment and Housing Act and describe disputes arising under employment. The seventh and eight causes of action describe disputes arising from a breach of employment contract. The ninth cause of action for negligent hiring, supervision and retention, arises out of a claim of a failure to appoint managers or employees who would not engage in retaliatory, harassing or discriminating conduct against employees. The tenth cause of action arises under the California Family Rights Act regarding discrimination and retaliation against an employee for taking leave. The eleventh and twelfth causes of action arise under wrongful termination in violation of a public policy and in retaliation for whistleblowing. Finally, though the thirteenth cause of action for intentional infliction of emotional distress states no facts as to a specific act, and only legal conclusions of discriminatory, harassing and retaliatory actions, plaintiff incorporates preceding paragraphs into the cause of action, which comprise entirely of facts pertaining to employment. Thus, the court concludes that the entire complaint is subject to the arbitration agreement.

Covered Parties

Plaintiff argues that the agreement must only apply to signatory parties, in this case plaintiff and the moving defendant, and, therefore, arbitration must be avoided to prevent inconsistent rulings as to others, such as defendants Tiffany Matos, Ian Doe, and Keith Doe. However, the complaint, aside from the second cause of action for hostile work environment, and the thirteenth cause of action for intentional infliction of emotional distress, are alleged only against the moving defendant and its related entity. Further, plaintiff provides no evidence to suggest that the individual defendants are

being sued in a capacity other than within the scope of their employment with the moving defendant. Rather, the complaint states that defendants Tiffany Matos, Ian Doe, and Keith Doe were supervisors for defendants. (Complaint, ¶¶ 2, 11.) As such, each defendant in the present action falls within the scope of the arbitration agreement. (Daly Decl., ¶ 13 & Ex. F [stating that Covered Claims between plaintiff and Starbucks, its subsidiaries and related companies, and current or former employees of Starbucks or related company are included in resolution of disputes by arbitration].) The court concludes that all parties to the complaint are subject to the arbitration agreement. (*Goldman v. KPMG, LLP* (2009) 173 Cal.App.4th 209, 219-220 [compelling arbitration of non-signatory parties may be done based on equitable estoppel, which precludes a plaintiff from seeking to hold non-signatories liable to his complaint for issues arising under an arbitration agreement].)

Request for Stay

Where the court orders arbitration, the court must also issue a stay upon motion of the same. (Code Civ. Proc., § 1281.4.) The matter is stayed pending arbitration.

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: KAG on 10/19/2021.
(Judge's initials) (Date)

(20) **Tentative Ruling**

Re: ***Urbina v. Best Buy Stores, LP, et al.***
Superior Court Case No. 20CECG01261

Hearing Date: October 21, 2021 (Dept. 503)

Motion: Defendants' Motion to Shorten Notice for Independent Medical Examination

Tentative Ruling:

To deny due to defendants' failure to comply with Fresno Superior Court Local Rule 2.1.17 before filing the motion.

Explanation:

This motion is brought pursuant to Code of Civil Procedure section 2032.220, and is therefore subject to Local Rule 2.1.17, which explicitly applies to all motions under sections 2016.010 through 2036.050 of the Code of Civil Procedure. (See Local Rule 2.1.17(A).) Defendants have not filed a request for Pretrial Discovery Conference regarding this discovery dispute, or obtained permission to file the motion as required by the Local Rule.

The court notes that a stipulation for a short continuance of the trial date would best resolve the various timing issues in connection with the independent medical examination of plaintiff. At this time, the court cannot continue the trial date as no formal motion has been made to the court.

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: KAG on 10/19/2021.
(Judge's initials) (Date)