Tentative Rulings for June 30, 2026
Department 3

To request oral argument, you must notify Judicial Secretary Crystal Marias at (760) 904-5722 and inform all other counsel no later than 4:30 p.m.

This court follows California Rules of Court, Rule 3.1308 (a) (1) for tentative rulings (see Riverside Superior Court Local Rule 3316). Tentative Rulings for each law & motion matter are posted on the Internet by 3:00 p.m. on the court day immediately before the hearing at Riverside Superior Court-Tentative Rulings.. If you do not have Internet access, you may obtain the tentative ruling by telephone at (760) 904-5722.

To request oral argument, no later than 4:30 p.m. on the court day before the hearing you must (1) notify the judicial secretary for Department 3 at (760) 904-5722 and (2) inform all other parties of the request and of their need to appear remotely, as stated below. If no request for oral argument is made by 4:30 p.m., the tentative ruling **will become the final ruling** on the matter effective the date of the hearing. **UNLESS OTHERWISE NOTED, THE PREVAILING PARTY IS TO GIVE NOTICE OF THE RULING.**

For information and instructions on remote appearances via **ZOOM**, visit the court's website at Riverside Superior Court-Remote Appearances

You may also make a Telephonic Appearance: On the day of the hearing, call into one of the below listed phone numbers, and input the meeting number (followed by #):

- Call-in Numbers: 1-833-568-8864 (Toll Free), 1-669-254-5252, 1-669-216-1590, 1-551-285-1373 or 1-646-828-7666
- Meeting Number: 161 692 7358

Please **MUTE** your phone until your case is called and it is your turn to speak. It is important to note that you must call fifteen (15) minutes prior to the scheduled hearing time to check in or there may be a delay in your case being heard.

Riverside Superior Court provides official court reporters for hearings on law and motion matters only for litigants who have been granted fee waivers and only upon their timely request. (See General Administrative Order No. 2021-19-1) Other parties desiring a record of the hearing must retain a reporter pro tempore.

1.

CASE #	CASE NAME	HEARING NAME
CVPS2505619	LINDMAN VS THE ESTATE OF DAVID A. CONTIGIANI	DEMURRER ON 2ND AMENDED COMPLAINT

Tentative Ruling: Overrule.

Requests for Judicial Notice:

Lindman requests that the court take judicial notice of the following:

1) The Second Amended Complaint filed January 30, 2026. A true and correct copy is attached hereto as Exhibit A;

2) The Court's Tentative Ruling issued December 31, 2025. A true and correct copy is attached hereto as Exhibit B; and

3) The Notice of Ruling filed by Defendant G&Y REAL ESTATE LLC on or about January 6, 2026. A true and correct copy is attached hereto as Exhibit C.

The court grants the requests.

Analysis

To withstand a demurrer the complaint must contain **"**a statement of the facts constituting the cause of action, in ordinary and concise language." (C.C.P. § 425.10.) **"**[T]he complaint need only allege facts sufficient to state a cause of action, each evidentiary fact that might eventually form part of the plaintiff's proof need not be alleged. (*C.A. v. William S. Hart Union High School Dist.* (2012) 53 Cal.4th 861, 872.) Generally a plaintiff need only plead facts necessary **"**to acquaint a defendant with the nature, source and extent of his claims." (*Doe v. City of Los Angeles* (2007) 42 Cal.4th 531, 549-550.) On demurrer the court must assume the truth of all facts properly pled, facts that may be implied or reasonably inferred from the facts expressly alleged, and evidentiary facts that are in exhibits attached to the complaint. (*Evans v. City of Berkeley* (2006) 38 Cal.4th 1, 6.) The court's task is to treat well-pleaded allegations in the complaint as true and determine whether the complaint states facts sufficient to constitute a cause of action. (*Blank v. Kirwan* (1985) 39 Cal.3d 311, 318.) **"**The hearing on demurrer may not be turned into a contested evidentiary hearing through the guise of having the court take judicial notice of affidavits, declarations, depositions, and other such material which was filed on behalf of the adverse party and which purports to contradict the allegations and contentions of the plaintiff." (*Del E. Webb Corp. v. Structural Materials Co.* (1981) 123 Cal.App.3d 593, 605; *Joslin v. H.A.S. Ins. Brokerage* (1986) 184 Cal.App.3d 369, 374-375.)

In evaluating a demurrer, the court gives the pleading a reasonable interpretation by reading it as a whole and all of its parts in their context. (*Moore v. Regents of University of California* (1990) 51 Cal.3d 120, 125.) In ruling on a demurrer, the court

may take into account only the challenged pleading and matters subject to judicial notice under E.C. §§451, 452. (C.C.P. §§430.30(a0, 430.70; *Gould v. Maryland Sound Indus., Inc.* (1995) 31 Cal.App.4th 1137, 1144.) The sole issue raised by a demurrer is whether the facts pleaded state a valid cause of action, not whether they are true. Thus, no matter how unlikely or improbable, the plaintiff**'**s allegations must be accepted as true for the purposes of the demurrer. (*Requa v. Regents of University of California* (2012) 213 Cal.App.4th 213, 223 (*citing Del E. Webb Corp. v. Structural Material Co.* (1981) 123 Cal.App.3d 593, 604).) However, a demurrer does not admit contentions, deductions or conclusions of fact or law. (*Daar v. Yellow Cab Company* (1967) 67 Cal.2d 695, 713.) If the complaint fails to state a cause of action, the court must grant the plaintiff leave to amend if there is a reasonable possibility that the defect can be cured by amendment. (*Blank v. Kirwan* (1985) 39 Cal.3d 311, 318.)

1st Cause of Action for Civil theft (Penal Code §496):

Penal Code section 496(a), prohibits a person from **"**receiv[ing] any property that has been stolen or that has been obtained in any manner constituting theft or extortion, knowing the property to be so stolen or obtained," or **"**withholding any property from the owner, knowing the property to be stolen or obtained." (Penal Code §496(a).) Penal Code section 496 generally authorizes persons to maintain a civil action against a person who knowingly received, concealed, sold, or withheld their stolen property or someone who aids such a person. (*Siry Investment, L.P. v. Farkhondehpour* (2022) 13 Cal.5th 333, 346-347.)

Section 496 extends to property **"**that has been obtained in any manner constituting theft." Penal Code §484 describes acts constituting theft, and states, in part: **"**Every person who shall feloniously steal, take, carry, lead, or drive away the personal property of another, or who shall fraudulently appropriate property which has been entrusted to him or her, or who shall knowingly and designedly, by any false or fraudulent representation or pretense, defraud any other person of money, labor or real or personal property, or who causes or procures others to report falsely of his or her wealth or mercantile character and by thus imposing upon any person, obtains credit and thereby fraudulently gets or obtains possession of money, or property or obtains the labor or service of another, is guilty of theft." (Penal Code §484(a).) Therefore, §484 defines theft to include theft by false pretenses. (*Bell v. Feibush* (2013) 212 Cal.App.4th 1041, 1048.)

The SAC, like the prior FAC, states facts sufficient to state a cause of action for theft as defined in Penal Code §484 as to Defendant The Estate of David A. Contigiani[1]. The SAC asserts that Contigiani impersonated the trustee of the Lindman Trust to fraudulent convey a Grant Deed to Bear Flag Homes, LLC. Further, the SAC asserts that Bear Flag and G&Y received the property knowing that it was stolen. That this knowledge is established by their deliberate and coordinated bypass of mandatory industry regulations intended to prevent fraudulent conveyances, which was a product

[1] The FAC does not assert a theft cause of action based on Penal Code §484. However, a principal in the actual theft of the property may be convicted pursuant to Penal Code §496 in lieu of §484, but not of both. (Penal Code §496(a).) Here, Plaintiff opted to sue both the principal and the other defendants pursuant to §496, making §484 merely relevant as the definition of theft.

of careful consideration and planning to accomplish the illegal acquisition and hide the transaction from the true owners and the public. Further, the SAC alleges that the deliberate and bad-faith nature of this withholding is confirmed by G&Y's current conduct: upon information and belief, G&Y has already received full pay out from its title insurance policy for the purchase price of approximately $560,000.00. Despite having been made financially whole, Defendant G&Y continues to illegally possess both the real property and the Trust's motor vehicle, holding both "ransom" by conditioning their return upon a payment of $150,000.00.

Here, the SAC sets forth sufficient facts to state a claim, given it sets forth sufficient facts to show that either G&Y participated in the theft or has refused to hand over property now known to have been stolen.

G&Y's arguments regarding *Siry Investment, LLP v. Farkhonehpour* (2022) 13 Cal.5th 333 are no longer availing. Siry did not address the sufficiency of pleadings but whether a default judgment for damages under 496 were proper finding that "[t]o prove theft, a plaintiff must establish criminal intent on the part of the defendant" which means there was "careful planning and deliberation reflecting the requisite criminal intent." (*Siry Investment, LLP v. Farkhonehpour* (2022) 13 Cal.5th 333, 361-362.) However, that does not translate into a requirement that a plaintiff must plead facts that "*establish* that G&Y actually knew the property was stolen or acted with the criminal intent required" as asserted in the moving papers. All that is required is that sufficient facts are alleged that either G&Y was involved in the theft or that G&Y knew that the real property was stolen at the time it was received, or continued to possess the property after it knew the real property was stolen. The SAC sufficiently alleges those facts. Accordingly, the court overrules the demurrer to the 1st cause of action.

2nd Cause of Action for Conversion:

Granting leave to amend in an order sustaining a demurrer "must be construed as permission to the pleader to amend the cause of action which he pleaded in the pleading to which the demurrer has been sustained." (*People ex rel. Dept. of Pub. Wks. v. Clausen* (1967) 248 Cal.App.2d 770, 785.) Normally, such leave does not allow the pleader leave to add a new cause of action unless "the new cause of action directly responds to the court's reason for sustaining the earlier demurrer." (*Patrick v. Alacer Corp.* (2008) 167 Cal.App.4th 995, 1015.)

Here, the FAC previously included allegations of conversion, even though a specific claim was not alleged. Further, arguably the inclusion of this new cause of action is responsive to the court's ruling regarding the elements of a section 496 civil theft claim. The allegations in the FAC related to the real property and the personal property were distinctly different. Accordingly, the court will not sustain the demurrer on the grounds that Lindman did not have leave to add the additional cause of action.

Conversion is a strict liability tort, whose elements are: (1) the plaintiff's ownership or right to possession of the property; (2) the defendant's conversion by a wrongful act or disposition of property rights, and (3) damages. (*Burlesci v. Petersen* (1998) 68 Cal.App.4th 1062, 1066.) "Conversion" consists of any act of dominion

wrongfully exercised over personal property of another inconsistent with, or in denial of, his rights thereto. (*Zaslow v. Kroenert* (1946) 29 Cal.2d 541..) The SAC sufficiently states a conversion cause of action against G&Y regarding the vehicle. Accordingly, the court overrules the demurrer to the 2nd cause of action.

2.

CASE #	CASE NAME	HEARING NAME
CVRI2405636	DREVDAHL VS THE FOXHALL EVENT COMPANY LLC	MOTION TO COMPEL

Tentative Ruling: Deny

Under CCP § 2016.090(a)(1), within 60 days of a demand being made by any party to a lawsuit, each party that has appeared in the lawsuit must provide to the other parties an initial disclosure. **"**A party**'**s obligation under this section may be enforced by a court on its own motion or the motion of a party to compel disclosure." (CCP § 2016.090(a)(4).)

Based on the opposition and reply, Defendant provided a disclosure after this motion was filed. Due to this, the motion is moot. While Plaintiff dislikes how Defendant responds and argues in reply that the statements made by Defendant are false, Plaintiff does not argue that these responses are not code compliant. The Court cannot make Defendant change its responses simply because Plaintiff does not agree with them. As such, this argument by Plaintiff has no impact on this motion.

Both parties seek sanctions. CCP § 2016.090 does not specifically provide for sanctions. Plaintiff does not identify a statutory basis for sanctions other than CCP § 2016.090. Even if he had, sanctions do not appear appropriate because Defendant**'**s counsel did not receive the demand for the initial disclosure. As such, imposing sanctions would be unjust. In opposition, Defendant seeks sanctions under CCP § 2031.310(h). However, this statute pertains to motions to compel further responses to requests for production of documents, which are not at issue in this motion. Due to this, this request appears inappropriate. Based on this, both requests for sanctions should be denied.

3.

CASE #	CASE NAME	HEARING NAME
CVRI2501757	ADAME VS WALMART INC.	MOTION FOR ORDER UNDER CODE OF CIVIL PROCEDURE § 129(A)(2) AUTHORIZING THE RIVERSIDE COUNTY CORONER TO RELEASE PHOTOGRAPHS OF DECEDENT

Tentative Ruling: Off Calendar. Withdrawn.

4.

CASE #	CASE NAME	HEARING NAME
CVRI2502298	LILES VS SILENT VALLEY CLUB, INC.	MOTION FOR SUMMARY JUDGMENT OR IN THE ALTERNATIVE SUMMARY ADJUDICATION

Tentative Ruling: **"**A defendant moving for summary judgment has the burden of showing that a cause of action lacks merit because one or more elements of the cause of action cannot be established or there is a complete defense to that cause of action." (*Jones v. Wachovia Bank* (2014) 230 Cal.App.4th 935, 945; Code Civ. Proc., §437c, subd. (p)(2).) **"**A cause of action **'**cannot be established **'**if the undisputed facts presented by defendant prove the contrary of plaintiff**'**s allegations as a matter of law." (*Brantly v. Pisaro* (1996) 42 Cal.App.4th 1591, 1597.) Only when defendant meets this burden, **"**the burden shifts to the plaintiff… to show that a triable issue of one or more material facts exists as to the cause of action or a defense thereto." (Code Civ. Proc., §437c(p)(2).)

"A motion for summary adjudication may be made by itself or as an alternative to a motion for summary judgment and shall proceed in all procedural respects as a motion for summary judgment." (Code Civ. Proc., §437c(f)(2).) **"**A party may seek summary adjudication as to one or more causes of action, one or more affirmative defenses, one or more claims for damages, or one or more issues of duty, if the party contends that the cause of action has no merit, that there is no affirmative defense to the cause of action, that there is no merit to an affirmative defense as to any cause of action, that there is no merit to a claim for damages…or that one or more defendants owed or did not owe a duty to plaintiff…." (Code Civ. Proc., §437c(f)(1); *Maria D. v. Westec Residential Sec., Inc*. (2000) 85 Cal.App.4th 125, 133.) **"**A motion for summary adjudication shall be granted only if it completely disposes of a cause of action, an affirmative defense, a claim for damages, or an issue of duty." (*Ibid*.)

I. Motion for summary judgment is granted.

The motion for summary judgment is granted. Summary judgment is granted only if the moving parties show that **"**there is no triable issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." (Code Civ. Proc., § 437c(c).) As further discussed herein, because Defendant prevails on every cause of action, the entire action should be fully disposed on summary judgment.

a. Motion for summary adjudication should be granted in part and denied in part.

i. First cause of action: Discrimination on the basis of sexual orientation, sex, gender, and gender expression/stereotype.

FEHA prohibits employers from discriminating against a person or discharge the person from employment on the basis of various enumerated characteristics, including

“gender identity, gender expression, age, sexual orientation….” (Gov. Code, §12940(a).) On a motion for summary judgment in employment discrimination cases, the initial burden rests with the employer to show that no unlawful discrimination occurred either by (1) negating the element of Plaintiff’s prima facie case, or (2) showing that a legitimate nondiscriminatory reason for the adverse employment action existed. (*Cornell v. Berkeley Tennis Club* (2017) 18 Cal.App.5th 908, 926.) Here, Defendant makes the showing sufficient to meet its burden.

Defendant moves for summary judgment on the ground that Plaintiff’s first cause of action lacks merit as Plaintiff cannot establish a prime facie showing as to this cause of action. To state a prima facie case of employment discrimination in violation of the FEHA, the plaintiff must establish the following: ‘ “(1) the employee’s membership in a classification protected by the statute; (2) discriminatory animus on the part of the employer toward members of that classification; (3) an action by the employer adverse to the employee’s interests; (4) a causal link between the discriminatory animus and the adverse action; (5) damages to the employee; and (6) a causal link between the adverse action and the damage. ’[Citation.]” (*McCaskey v. California State Auto. Ass’n* (2010) 189 Cal.App.4th 947, 979.)

Defendant presents evidence negating the causation element of the cause of action - that Plaintiff was not terminated “because of” Plaintiff’s membership in a protected class. As demonstrated by Defendant, Plaintiff testified at her deposition that she did not witness any direct outward signs of discrimination against her based on her sexual orientation. (Defendant’s Separate Statement of Undisputed Material Facts [“UMF”] 27.) Plaintiff was unable to cite any reason beyond her own subjective feeling that Slocum’s alleged mistreatment of Plaintiff was based on her sexual orientation. (UMF 28.) She also testified that Slocum did not ever say anything to her that led her to believe her alleged mistreatment of Plaintiff was related to her sexual orientation. (UMF 29.) Plaintiff also testified that she did not ever disclose her sexual orientation either to Slocum or Camacho at any time. (UMF 30-31.) Also, Defendant demonstrates that, David Langhofer, who was a board member of Defendant during Plaintiff’s employment, testified at his deposition that complaints submitted by Plaintiff about her employment, as shown to him, did not make any reference to her sexual orientation. (UMF 53.)

Defendant anticipates that Plaintiff will point to a comment she heard from her former supervisor, Sherry Nosam, who allegedly overheard Slocum and Camacho refer to Plaintiff as “that.” Defendant asserts that Plaintiff’s claim of discrimination cannot be based Nosam’s comment. In support of its assertions, Defendant points out that Nosam testified at her deposition admitting that she could not verify whether the alleged comment she overheard related to Plaintiff. Nosam testified that she heard Slocum and Camacho stating, “we do not need ‘that ’in the store,” but she had no understanding of the context of the conversation during which the comment was made. (UMF 62, 63.) Nosam admitted that the alleged comment could have related to something or somebody else. (UMF 65.)

The foregoing evidence presented by Defendant shows Plaintiff cannot establish at least one of the essential elements of her claim. A causal link between the adverse employment decision by the employer and Plaintiff’s protected classification cannot be

established when the protected classification is not known to the employer. As such, the plaintiff cannot prove discrimination under FEHA without proving the employer (by way of the Park Director, Cindy Slocum) had knowledge of the protected classification when the adverse decision was made, or cite to any evidence, beyond Plaintiff's own subjective belief, that Slocum's animus towards her, if any, were based on Plaintiff's protected status. (*See Scotch v. Art Institute of California* (2009) 173 Cal.App.4th 986, 1008 ["plaintiff must prove the employer had knowledge of the employee's disability when the adverse employment decision was made"].)

The same evidence set forth above also demonstrates a lack of an illegitimate motive on the part of Defendant. In a motion for summary judgment, an employer can show no unlawful employment action occurred by showing that a legitimate nondiscriminatory reason for the adverse employment action existed. The employer's discriminatory motive is also an element of the cause of action for discrimination in violation of the FEHA subject to the three-part burden shifting test articulated in the U.S. Supreme Court case of *McDonnell Douglas Corp. v. Green* (1973) 411 U.S. 792; *See Morgan Regents of University of California* (2000) 88 Cal.App.4th 52, 68.) Under this burden-shifting test, the employer must first show that there was a legitimate nondiscriminatory reason for its decision to terminate the employee. (*Cornell v. Berkeley Tennis Club, supra,* 18 Cal.App.5th at 926.) Here, where evidence points to the fact that the employer was without knowledge of Plaintiff's protected classification, it raises an inference that Defendant's decision to terminate could not have been for a discriminatory reason based on an unknown protected classification. Moreover, Defendant presents a copy of a written complaint Plaintiff had filed with Defendant about Cindy Slocum. The complaint indicated that Plaintiff believed Slocum was micromanaging, retaliating against her, and that Slocum's behavior towards Plaintiff was creating a hostile environment for Plaintiff. Even if Plaintiff's subjective beliefs were true, the complaint indicates nothing regarding Plaintiff's status as a gay woman. In fact, Plaintiff admitted in her complaint that she took days off without permission and did not feel that she need to follow instructions from Slocum in handling her work duties. Plaintiff complained that she should be entitled to control her own schedule and demanding that she should be able to work overtime, work on her day-off, and should have discretion over the purchase orders without Slocum's objections. (Declaration of Beth Hunter ["Hunter Decl."], ¶ 11, Ex. M [July 30, 2024 written complaint][2].) The content of the complaint suggests that Plaintiff's basis for the alleged retaliation and harassment was Slocum's not letting Plaintiff do her job as she saw fit.

Once the burden shifted, Plaintiff fails to present controverting evidence to raise a triable issue of fact as to the element of causation. Plaintiff's separate statement filed in response to Defendant's UMF indicates that the facts supporting Defendant's arguments are disputed. However, Plaintiff provides no controverting evidence. Instead, Plaintiff merely argues that the deposition testimonies relied on by Defendant

[2] Plaintiff objected to the Hunter Declaration for lack of foundation and personal knowledge to establish authentication of Defendant's business records. Although the objection should be sustained, Plaintiff has also submitted the July 30, 2025 written complaint as an exhibit to her own declaration submitted in support of her opposition. Hence, Defendant's motion may still rely on the July 30, 2024 written complaint as evidence. (*See Villa v. McFerren* (1995) 35 Cal.App.4th 733, 749 [evidence presented by plaintiff in opposition may cure evidentiary gaps in the moving paper].)

do not constitute material facts. The only evidence submitted in support of Plaintiff's dispute is her own declaration stating that she had a good faith belief that the conduct of which she complained was illegal sexual orientation discrimination. (See Declaration of Robin Liles ["Liles Decl."], ¶ 4.) Nevertheless, Plaintiff's subject belief does not raise a triable issue as to causation. As the court noted in *Foroudi v. The Aerospace Corp.* (2020) 57 Cal.App.5th 992:' " "Athough an employee's evidence submitted in opposition to an employer 'motion for summary judgment is construed liberally, it "remains subject to careful scrutiny." [Citation.] The employee's "subjective beliefs in an employment discrimination case do not create a genuine issue of fact; nor do uncorroborated and self-serving declarations." [Citation.] '[Citation.]" (*Id.* at 1007-1008.)

For the foregoing reasons, the first cause of action is subject to summary adjudication. Defendant has demonstrated Plaintiff cannot establish at least one essential element of her cause of action, and Plaintiff has failed to raise a triable issue as to that element. Therefore, Defendant is entitled to summary adjudication as a matter of law.

ii. Second cause of action - retaliation under the FEHA

Defendant also prevails on the second cause of action. In California, retaliation by employer is prohibited under the FEHA, which prohibits an employer to discharge, expel, or otherwise discriminate against any person because the person has opposed any practices forbidden under the Act. (Gov. Code, §12940(f).) FEHA protect employees who file a complaint, testify, assist or participate in any manner in proceedings or hearings under the statutes; or oppose acts made unlawful by this statute. (Gov. Code, §12940(h).) To establish a prima facie case for retaliation, plaintiff must show that: (1) plaintiff engaged in a protected activity; (2) the employer subjected plaintiff to an adverse employment action; and (3) a causal link exists between the protected activity and the employer's action. (*Yanowitz v. L'Oreal USA, Inc., supra*, 36 Cal.4th at 1044.)

Here, Defendant argues that Plaintiff did not engage in a protected activity, which is an essential element of the cause of action for FEHA retaliation (Gov. Code, § 12940(h)). Defendant argues that Plaintiff did not engage in any protected activity when she submitted complaints about Slocum to Defendant's human resource department because the complaints did not relate to any practices that were reasonably believed unlawful under FEHA, such as discrimination or harassment based on the fact Plaintiff was a gay woman. In support of its contention, Defendant relies on written statements which Defendant contends are business records. Defendant submits a copy of an unsigned written statement purportedly prepared by its employee Tracy Camacho on July 17, 2024, which detailed the verbal complaint made by Plaintiff to her the prior day, on July 16, 2024. This July 17, 2024, statement by Camacho is attached as Exhibit L to the declaration of Beth Hunter, who states that she is the current Board President of Defendant and currently serving as the interim Head of Human Resources. (Declaration of Beth Hunter ["Hunter Decl."], ¶ 2.) The written statement contained Camacho's accounts of Plaintiff's complaint about Slocum taking away staff scheduling task from Plaintiff and creating her own work schedules for the store staff. (UMF 20.) It further notes that Plaintiff complained that she believed she was working in a hostile

workplace where Slocum was setting her up for failure and would not listen to her concerns. (UMF 21.) Defendant also relies on an unsigned written statement purportedly prepared by Plaintiff on July 30, 2024, following up on the earlier verbal complaints made to Camacho and reasserting her interpersonal issues with Slocum, complaining that she was frustrated working with Slocum on matters of staff scheduling, hiring personnel for the store, and alleged Slocum was micromanaging Plaintiff regarding approval of purchase orders. (UMF 24.) Defendant argues that the records do not indicate that at any time Plaintiff complained to Camacho or other manager-level employee of Defendant that she believed she was being discriminated against because of her sexual orientation or identity as a gay woman. (UMF 23.)

Here, Defendant meets its initial burden by demonstrating that Plaintiff cannot establish that she engaged in a protected activity. Once the burden shifted, Plaintiff fails to raise a triable issue as to this element. Plaintiff first objects to the Hunter declaration, and the related exhibits, on the grounds that Hunter lacks personal knowledge and that any statements made in the declaration to establish her capacity as custodian of record of Defendant is untrue as Hunter later testified at her deposition that she has no way of knowing how the records were prepared and maintained in the ordinary course of Defendant's business. (See Plaintiff's Evidentiary Objections.) The objections are sustained. However, Plaintiff's July 30th written complaint is also attached as an exhibit to Plaintiff's declaration (Liles Decl., Ex. 1) submitted in support of her opposition, which corroborates Defendant's assertion that Plaintiff did not reference or cite her sexual orientation as the basis for the alleged mistreatment or hostile work environment by Slocum. (*See Villa v. McFerren* (1995) 35 Cal.App.4th 733, 749 [evidence presented by plaintiff in opposition may cure evidentiary gaps in the moving paper].)

Plaintiff asserts that a triable issue of act exists as to whether her complaints constitute protected activity. Plaintiff submits her own declaration stating that she was subject to hostile environment and undue stress from Slocum's micromanagement and had a good faith belief that the conduct she complained of was directed to her because of her sexual orientation. (Liles Decl., ¶ 4, Ex. 1.) It is true that a plaintiff may prevail in the retaliation if she reasonably and good faith believed that what she was opposing constituted unlawful employer conduct such discrimination or harassment. (*Miller v. Department of Corrections* (2005) 36 Cal.4th 446, 474.) However, to be protected, an employee's actions must oppose activity the employee reasonably believes is prohibited employment practice under the FEHA such as discrimination. (*Dinslage v. City and County of San Francisco* (2016) 5 Cal.App.5th 368, 383.) It is undisputed that Plaintiff made no mention of her protected status in her written complaint and admits to having no evidence that the fact of her sexual orientation was ever mentioned to Defendant or its management-level employees. Any complaint regarding her what she believed to be hostile work environment, harassment and micromanaging based on scheduling and interpersonal conflicts cannot reasonably be believed as activity prohibited by FEHA and does not amount to protected activity.

For the foregoing reason, the second cause of action for retaliation in violation of FEHA is subject to summary adjudication.

iii. Third cause of action - failure to prevent/remedy discrimination and/or retaliation in violation of the FEHA

Here, because Defendant demonstrates that Plaintiff's discrimination retaliation claims have no merits, Plaintiff also cannot prevail on his claim that Defendant failed to prevent or investigate and remedy the discrimination and retaliation where no triable issues of facts exist as to any viable discrimination or retaliation claim. Therefore, summary adjudication of this cause of action is proper.

iv. ***Fourth cause of action – whistleblower retaliation (Lab. Code, § 1102.5(b))***

To establish a prima facie case of retaliation a plaintiff must show: "(1) he or she engaged in a protected activity, (2) the employer subjected the employee to an adverse employment action; and (3) a causal link between the two." (*Akers v. County of San Diego* (2002) 95 Cal.App.4th 1441, 1453.) The retaliatory motive, can be "proved by showing that that he employer was aware of the protected activities, that the employee engaged in protected activities, and that the adverse action following within a relatively short time thereafter." (*Morgan v. Regents of University of California* (2000) 88 Cal.App.4th 52, 69.)

Here, Plaintiff's fourth cause of action under the whistleblower retaliation statute (Lab. Code, § 1102.5(b)) also fails for the reason that Plaintiff cannot establish the critical element that she engaged in a protected activity by disclosing information about a prohibited conduct. Labor Code section 1102.5, subdivision (b), provides that an employer may not "retaliate against an employee for disclosing information … to [1] a government or law enforcement agency, [2] to a person with authority over the employee or another employee who has the authority to investigate, discover, or correct the violation or noncompliance … if the employee has reasonable cause to believe that the information discloses a violation of state or federal statute…." (Lab. Code, §1102.5(b).) Here, as set forth above, Plaintiff's complaint to Defendant's management did not disclose any information suggesting that Slocum's treatment of Plaintiff was unlawful or in violation of any law. As such, the fourth cause of action is subject to summary adjudication.

For the foregoing reasons, Defendant's motion for summary judgment is granted.

5.

CASE #	CASE NAME	HEARING NAME
CVRI2503225	PEREZ VS MERCURY INSURANCE COMPANY	DEMURRER ON 1ST AMENDED COMPLAINT

Tentative Ruling:

GRANT Defendant' 'unopposed Request for Judicial Notice of the Court's 2/25/26 Minute Order (RJN Ex. "D".)

GRANT Defendants ’Request for Judicial Notice of the *existence* of the court records and denial letter in Exs. “B”, “C”, “E” – “I”, but not the *truth* of the contents.

SUSTAIN the demurrer without leave to amend.

REQUEST FOR JUDICIAL NOTICE

“[A]lthough the existence of a document may be judicially noticeable, the truth of statements contained in the document and its proper interpretation are not subject to judicial notice if those matters are reasonably disputable.” (*Fremont Indemnity Co. v. Fremont General Corp*. (2007) 148 Cal. App. 4th 97, 113.)

Defendants seek judicial notice of: 1) the Policy issued by CAIC to Plaintiffs (Ex. “A”); 2) CAIC’s 6/4/25 denial letter (Ex. “B”); 3) 2/25/26 Tentative Ruling regarding the demurrer to the original Complaint (Ex. “C”); 4) 2/25/26 Minute Order (Ex. “D”); 5) Plaintiffs ’Exhibit A to the opposition to the prior demurrer – CAIC’s 10/15/24 letter to Ironside Claims confirming denial (Ex. “E”); 6) Plaintiffs ’Exhibit B to the opposition to the prior demurrer – CAIC’s 10/25/225 letter to Ironside Claims (Ex. “F”); 7) Plaintiffs ’ Exhibit C to the opposition to the prior demurrer – CAIC’s 4/11/25 letter to Saman Shooshani (Ex. “G”); 8) Plaintiffs ’Exhibit D to the opposition to the prior demurrer – CAIC’s 5/9/25 letter to Saman Shooshani (Ex. “H”); and, 9) Plaintiffs ’Exhibit E to the opposition to the prior demurrer – CAIC’s 5/23/25 letter to Saman Shooshani (Ex. “I”.)

Defendants ’cited authority to take judicial notice is Evidence Code § 452(h), which provides for judicial notice of: “Facts and propositions that are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy.” Defendants have not demonstrated that all of these items fit within this catch-all provision. Nonetheless, Plaintiffs do not oppose the request for judicial notice. And, the Policy (RJN Ex. “A”) fits within the catch-all provision.

However, the Court can take judicial notice of the records in the pending action, or in any other action pending in the same court or any other court of record in the U.S. (Evid. Code § 452(d).) But, judicial notice of other court records and files is limited to matters that are indisputably true. This generally means judicial notice is limited to the orders and judgments in other court files, as distinguished from the contents of documents filed therein. (*Fremont, supra.*; *Arce v. Kaiser Found. Health Plan, Inc.* (2010) 181 Cal.App.4th 471, 482-484.) Here, the Court can take judicial notice of the 2/25/26 Minute Order (RJN Ex. “D”.) The Court can also take judicial notice of the *existence* of the opposition to the prior demurrer and its exhibits but, not the *truth* of the contents. (RJN Exs. “C”, “E” – “I”.)

The remaining exhibits is the 6/4/24 CAIC letter denying coverage. (see RJN Ex. “B”.) Notably, Plaintiffs do not oppose the request for judicial notice of this document. Similar to the court records addressed immediately above, the Court can take judicial notice of the *existence* of the letter but, not the *truth* of its contents.

DEMURRER[3]

Statute of Limitations

In an action to recover policy benefits, the statute starts to run upon the insurer's unconditional denial of the insured's claim. (*State Farm Fire & Cas. Co. v. Sup. Ct. (Bolek)* (1989) 210 Cal.App.3d 604, 609.) Also, an insured who makes a timely claim is not penalized for the time it takes the insurer to investigate the claim. The statute of limitations is equitably tolled from the time the insured gives notice of a claim until the insurer denies coverage. (*Forman v. Chicago Title Ins. Cod.* (1995) 32 Cal.App.4th 998, 1003; see also, *Prudential-LMI Comm'l Ins. v. Sup. Ct. (Lundberg)* (1990) 51 Cal.3d 674, 687 [policy provisions limiting time to sue also tolled.]) To stop the tolling period, the insurer must formally and unequivocally deny the claim in writing. Once it has done so, the limitations period begins to run again. (*Prudential-LMI Comm'l Ins., supra.* at 678.)

Contractual agreements to shorten the limitations period are generally enforceable as long as the agreed upon limitation is reasonable and provides sufficient time to effectively pursue a judicial remedy and the triggering event for either the breach of contract or accrual of the right is immediate and obvious. (*Moreno v. Sanchez* (2003) 106 Cal. App. 4th 1415, 1430.) "California courts have afforded contracting parties considerable freedom to modify the length of a statute of limitations." (*Ibid*.) However, the shortened limitations period must not be unreasonable. (*Ibid*.) One-year contractual limitations provisions are generally held to be reasonable. (*Lawrence v. Western Mutual Ins. Co.* (1988) 204 Cal. App. 3d 565, 571.)

A one-year limitation period under a homeowner's insurance policy begins to run on the date of the inception of the loss but is tolled "from the time an insured gives notice of the damage to his insurer ... until coverage is denied." (*Prudential–LMI Commercial Ins. v. Superior Court* (1990) 51 Cal.3d 674, 693.) The California Supreme Court explained that equitable tolling eliminates unfair results in "progressive property damage cases" by, among other things, (1) not requiring the insured to file suit before the claim has been investigated and determined and (2) protecting the reasonable expectations of the insured by requiring the insurer to investigate the claim without later invoking a technical rule. (*Id.* at 692.) Likewise, the tolling ends when the claim is settled and paid. (*Marselis v. Allstate Ins. Co.* (2004) 121 Cal. App. 4th 122, 126.)

[3] In evaluating a demurrer, the court gives the pleading a reasonable interpretation by reading it as a whole and all of its parts in their context. (*Moore v. Regents of University of California* (1990) 51 Cal. 3d 120, 125). The court assumes the truth of all material facts which have been properly pleaded, of facts which may be inferred from those expressly pleaded, and of any material facts of which judicial notice has been requested and may be taken. (*Crowley v. Katlem*(1994) 8 Cal. 4th 666, 672). However, a demurrer does not admit contentions, deductions or conclusions of fact or law. (*Daar v. Yellow Cab Company* (1967) 67 Cal. 2d 695, 713). Facts appearing in exhibits attached to the complaint will also be accepted as true and, if contrary allegations appear in the complaint, will be given precedence. (*Del E. Webb Corp. v. Structural Materials Co.* (1981) 123 Cal. App. 3d 593, 606). If the complaint fails to state a cause of action, the court must grant the plaintiff leave to amend if there is a reasonable possibility that the defect can be cured by amendment. (*Blank v. Kirwan* (1985) 39 Cal. 3d 311, 318).

An insured's request for reconsideration of an insurance claim does not create an additional period of equitable tolling: "[O]nce an unequivocal denial has been made, the insured's later requests for reconsideration do not serve the purposes of and do not extend the period of equitable tolling." (*Singh v. Allstate Ins. Co.* (1998) 63 Cal.App.4th 135, 148.) The *Singh* court explained that the policies underlying the equitable tolling principle announced in *Prudential-LMI, supra,* cease to exist once the insurer has investigated the claim and denied coverage. (*Id.* at 145.) The Court observed that beginning a new period of equitable tolling based on a request for reconsideration would be anomalous and would allow claimants to extend the one-year limitation period at will with successive periods of tolling. (*Ibid*.) However, an insurer's reopening and reconsideration of a claim tolls the revived one-year period to bring suit. (*Ashou v. Liberty Mutual Fire Ins. Co.* (2006) 138 Cal.App.4th 748, 753.)

Here, CAIC Policy No. CAH0000371558 was issued to Plaintiffs, which Policy contains a one-year time limitation to file suit. The Policy specifically provides "No action can be brought against us unless there has been full compliance with all of the terms under Section I of this policy and the action is started within one year after the date of loss." (Dec.Kleiner ¶ 5; Request for Judicial Notice [RJN] Ex. "A".) The date of loss was 3/13/24 when Plaintiff, Perez, discovered the water leak under her kitchen sink. (FAC ¶ 15.) On 3/14/24, Plaintiff, Perez, contacted Emilio Uriate, owner/operator of All Professional Cleaning Systems (APCS) who inspected the property and found extensive water and damage in the kitchen beneath the cabinets. (*Id.* ¶ 16.)

Plaintiffs reported the damages to CAIC on 3/20/24. (*Id.* ¶ 17.) The same day, Uriate contacted Defendants 'adjustor, Pedro Huerta, to explain the nature of the loss; Huerta requested additional information. (*Id.* ¶ 18.) On 3/21/24, Uriate emailed the requested information to Huerta. (*Id.* ¶ 19.) On 3/22/24, Defendants accepted coverage of the Claim, and Huerta expressly authorized Uriate to conduct the requested EMS and demolition. (*Id.* ¶ 20.) It is alleged that Plaintiffs hired APCS to perform the EMS/demolition authorized by Defendants. (*Id.* ¶ 21.) Plaintiffs allege that but for Defendants 'acceptance of the Claim and approval of the EMS/demotion to be performed by APCS, the work would not have been performed so, Defendants are estopped from subsequently denying the Claim based on the EMS/demolition that was performed by APCS. (*Id.* ¶¶ 21, 46.) On 3/25/24, APCS began and completed the authorized work. (*Id.* ¶ 22.)

Then, on or around 6/4/24, after previously approving the Claim (3/22/24), CAIC's new adjuster, Sarah Biollin, sent a Claim Denial Letter to Plaintiffs, which made certain false claims. (*Id.* ¶¶ 28-34.) The FAC alleges the denial letter "falsely claims that excessive demolition was performed by APCS, which was not, and uses this falsehood as a basis to deny coverage for the Claim, of which it is not. (*Id.* ¶ 35.) On 10/15/24, Defendants confirm the 6/4/24 denial has been in reconsideration. (*Id.* ¶ 36.) This letter also makes certain false claims including damage to the kitchen cabinets occurred from a "long-term leak", among others. (*Id.* ¶¶ 37-40.) Plaintiffs hired a public adjuster, Chris Harrington with Ironside Claims, due to Defendants 'bad faith denial. (*Id.* ¶ 41.)

On 10/25/24, Defendants confirm the Claim has been in reconsideration and has been entirely reevaluated. (*Id.* ¶ 42.) The FAC alleges that due to the Claim

reconsideration period, Defendants carefully re-examined the facts, Policy, and additional information including pre-demolition videos that depict the leak. (*Id.* ¶ 43.) Defendants assigned a new adjuster, Jerry Hansen, to the Claim. (*Id.* ¶ 44.) Defendants also conducted an additional inspection of the Property. (*Id.* ¶ 45.) The FAC alleges that in the 10/25/24 letter, Defendants concede the 6/4/24 denial was based on Defendants **'** inability **"**to make a definitive coverage determination due to the extent of demolition performed." (*Id.* ¶ 46.) However, on 3/22/24, Defendants expressly authorized the EMS/demolition that was performed. (*Ibid.*) The FAC alleges Plaintiffs **'**reasonable reliance on Defendants **'**approval of the EMS/demolition pursuant to their acceptance of coverage under the Claim. (*Id.* ¶ 47.)

On 11/14/24, Defendant's new adjuster, Jerry Hansen, inspected the property along with Plaintiff, Perez, and her adjuster, Chris Harrington. (*Id.* ¶ 48.) On 11/26/24, Defendants sent another Claim denial letter, which makes certain additional false claims regarding a long-term leak. (*Id.* ¶¶ 49-54.) On 4/11/25, Defendants reaffirm denial of the Claim after reviewing new evidence and reconsideration of existing evidence initially prompted by a 3/13/25 email from Plaintiffs **'**counsel. (*Id.* ¶ 55.) Thereafter, additional evidence was provided by Plaintiffs to Defendants on 4/27/25, which they confirmed receipt of and considered (5/9/25 letter), and issued a denial of the Claim. (*Id.* ¶ 56.) More new photographic evidence was provided on 5/14/25, 5/18/25, and 5/21/25, which Defendants confirmed receipt of and reviewed but, maintained denial of the Claim (5/23/25). (*Id.* ¶ 57.) Plaintiffs filed this lawsuit on 6/4/2**5**.

CAIC concedes that the limitations period was tolled while CAIC investigated the claim from 3/20/24 until 6/4/24. However, CAIC asserts that when the claim was reported on 3/20/24, seven days had already run from 3/13/24 to 3/20/24. CAIC asserts that the time from 6/4/24 to 6/4/25 is 365 days. But, adding the seven days to that time period means total elapsed time from date of loss to filing of this lawsuit was 372 days. Thus, CAIC asserts that Plaintiffs **'**lawsuit was filed seven days too late, and this entire action is time-barred.

In response, Plaintiffs make the same arguments as made in the prior demurrer. They argue that there were a series of reconsideration/reinvestigation periods that occurred in which the limitations period was tolled. There is no dispute that the limitations period was tolled from 3/20/24 to 6/4/24 during the time in which CAIC was investigating the claim until it closed the claim on 6/4/24.

Plaintiffs assert that an additional tolling period occurred from 6/4/24 to 10/15/24 based on the 10/15/24 letter indicating that Defendants reconsidered the denial by reexamining the facts, the Policy, and additional video information. (FAC ¶ 43.) They assert that a subsequent 10/25/24 letter states denial of coverage on 6/4/24 was based on Defendants **'**inability **"**to make a definitive coverage determination due to the extent of demolition performed." (*Id.* ¶ 46.) Plaintiffs argue that Defendants are estopped from asserting a denial based on EMS and demolition that they authorized, and that Plaintiffs relied on as an indication of coverage. (*Id.* ¶¶ 21, 46.)

Plaintiffs also assert that a 4/11/25 letter from Defendants reaffirmed denial of the claim after reviewing new evidence and reconsideration of existing evidence prompted

by Plaintiffs ’counsel’s 3/13/25 email. (*Id.* ¶ 55.) Thus, they assert tolling also occurred from 3/13/25 to 4/11/25.

Plaintiffs further assert that on 4/27/25, Plaintiffs provided new evidence to Defendants. (*Id.* ¶ 56.) Defendants confirmed receipt of the additional information on 5/9/25 and issued a new denial of the Claim. (*Ibid*.) They assert tolling also occurred from 4/27/25 to 5/9/25.

Plaintiffs submitted new evidence by email on 5/14/25, 5/18/25, and 5/21/25, which Defendants confirmed receipt of on 5/23/25. (*Id.* ¶ 57.) Plaintiffs argue that based on these facts, Defendants cannot establish that no reconsideration occurred where after the initial denial they: 1) assigned a new adjustor to the Claim; 2) conducted a re-inspection of the property; 3) conducted additional reviews of the Claim; and 4) analyzed new evidence in support of the claim. (*Ashou, supra.* at 138 Cal.App.4th 748, 756-757, 762-763.) In *Ashou,* the Court addressed the elements of equitable tolling.[4] It also distinguished *Singh* as a case that stands for the proposition that there cannot be a “second period of equitable tolling.” (*Id.* at 758.)

Plaintiffs argue that this case is like *Ashou,* and unlike, *Singh, supra.* because in *Singh,* the Court found that a mere *request* for reconsideration does not automatically reopen the claim nor does it require the insurer to respond. There, the *Singh* Court noted that the insurer reiterated its original denial and took no affirmative steps to reinvestigate the claim. As such, Plaintiffs argue that *Singh* is factually distinguishable from this case because here (as in *Ashou*), the insurer conducted additional investigation while also reserving its right to assert a limitations defense. However, Plaintiffs ’argument is somewhat misleading because in *Ashou,* due to an unclear record, the Court reversed and remanded the trial court’s decision to sustain the demurrer *with* leave to amend. Here, Plaintiffs again assert that any defects can be cured with factual allegations of Defendants ’reinvestigation and reconsideration of the Claim. Notably, while adding some additional facts in the FAC, Plaintiffs have not alleged a precise date that CAIC “agreed” to reconsider or reopen the Claim.

Moreover, Plaintiffs argue that Defendants are estopped from denying the Claim where they authorized EMS/demolition, which work was performed by APCS and was explicitly approved by Defendants. Plaintiffs take the position that this is an issue for the trier of fact particularly since “[t]ime limitations in the Policy do not apply to causes of action arising from misconduct that occurred after the Claim has been accepted by a Defendant.” (*Lawrence v. Western Mutual Ins. Co.* (1988) 204 Cal.App.3d 565, 575.)

However, Defendants take the position in reply that other than the initial tolling period from 3/20/24 until 6/4/24, no additional tolling occurred or was authorized because while CAIC agreed to review additional information, *it never actually* ***reopened*** *the Claim*. This argument is consistent with the *Ashou* Court’s decision. In *Ashou,* the

[4] The elements to establish an equitable estoppel are: 1) the party to be estopped must know the facts; 2) the party must intend their conduct be acted on, or must act with the right to believe it was so intended; 3) the party asserting estoppel must be ignorant of the true state of the facts; and 4) they must rely on the conduct to their injury. (see *DRG/Beverly Hills, Ltd. v. Chopstix Dim Sum Café & Takeout III, Ltd.* (1994) 30 Cal.App.4th 54, 59.)

Court remanded the demurrer to allow plaintiff "to allege, if she truthfully can do so, a precise date that Liberty Mutual agreed to reconsider her claim that would render her complaint timely under the doctrine of equitable tolling." (*Ashou, supra.* at 768.)

Defendants also argue that even if CAIC incorrectly denied the Claim, the applicable limitations period still applies. And, without an express agreement to reopen a claim, an insurer's statement of willingness to reconsider a denial does not toll the statute of limitations. (see *Singh, supra.* at 63 Cal.App.4th 135, 144; *Tran v. Safeco Ins. Co. of America* 2025 WL 3305848 *3 [in the insurance context, the limitations period is generally not tolled for a second time during the period of reconsideration but, it may be tolled where an insurer expressly agreed to reopen the claim]; *Vitug v. AXA Equitable Life Ins. Co.* 2020 WL 6472673 *2 [same.])

Here, Plaintiffs have **still** not established that Defendants *actually reopened* their claim. The letters from Defendants consistently reiterate that the coverage decision on the Claim remains unchanged and that the file remains closed. (FAC ¶¶ RJN, Exs. "B", "E" – "I".) Notably, the Court in *Tran* reasoned that once "the insured has already been denied the claim prior to the request for reconsideration, there are at least some grounds to sue the carrier." (*Tran, supra.*) At the prior demurrer hearing, the Court gave Plaintiffs the opportunity to allege a precise date that CAIC *reopened* their Claim, if they could truthfully do so. Otherwise, the Claim is time-barred. Plaintiffs 'FAC fails to make this critical allegation. Thus, the demurrer is sustained, without leave to amend.

6.

CASE #	CASE NAME	HEARING NAME
CVRI2503348	SORIANO VS THE 0312 RAMONA APTS, L.P.	MOTION TO COMPEL: FURTHER ANSWERS/RESPONSES TO INTERROGATORIES SPECIAL INTERROGATORIES

Tentative Ruling: Grant. Reasonable Sanctions.

Under CCP §§ 2031.310(b)(2), 2030.300(b)(1), 2033.290(b)(1) a motion to compel further responses must be accompanied by a meet and confer declaration. The motion is accompanied by the declaration of Attorney Elisabeth Herrmann who sent meet and confer correspondence to opposing counsel. Attorney Hermann attempted to utilize the court's IDC process and ultimately filed the instant motions to preserve Defendant's rights. This satisfies the meet and confer requirements.

I. MTC Further Responses to Special Interrogatories – Esmeralda Bahena Franco

Defendant Pro Management Company XIV, Inc. moves to compel Plaintiff Esmeralda Bahena Franco to produce further substantive verified responses to Special Interrogatories, Nos. 9, 12, 15, 18, 21, 24, 27, and 30. Plaintiff responded to the discovery after responses were initially due. Failing to respond within the time limit waives most objections to interrogatories, including claims of privilege and work product

protection. (CCP §2030.290(a); see *Leach v. Sup. Ct. (Markum)* (1980) 111 Cal.App.3d 902, 905-906.)

The interrogatories at issue asked Plaintiff to identify all documents supporting her contentions concerning the habitability of the apartment, particularly with respect to the water heater, bathroom lighting, ventilation, air conditioning, moisture buildup, and trash accumulation. Defendant also asked Plaintiff to identify all documents supporting her contention she was harassed and discriminated against.

Defendant argues Plaintiff failed to provide clear, code-compliant responses to the discovery. Plaintiff responded as follows: "Responding Party cannot produce the requested documents because the documents in question have never been, or are no longer in the possession, custody, or control of the Responding Party." Defendant argues this response does not identify the responsive, which makes it unresponsive and not code-compliant. In Opposition, Plaintiff argues this response is sufficient and supported by the Code.

A response to an interrogatory stating an "inability to respond" is legally insufficient. If the responding party lacks personal knowledge sufficient to respond, the party may so state, but only after making a reasonable and good faith effort to obtain the information by inquiry to other persons or organizations. (See *Sinaiko Healthcare Consulting, Inc. v. Pacific Healthcare Consultants* (2007) 148 Cal.App.4th 390, 406.) The responding party must make a reasonable effort to obtain whatever information is sought and if it is unable to do so, the responding party must specify why the information is unavailable and what efforts the responding party made to obtain it. (See *Deyo v. Kilbourne* (1978) 84 Cal.App.3d 771, 782.) However, there is no duty to provide information that is equally available to the propounding party. (CCP §2030.220(c); see *Bunnell v. Sup.Ct. (California Life Ins. Co.)* (1967) 254 Cal.App.2d 720, 723-724.)

Defendant correctly argues that the interrogatories ask Plaintiff to identify documents that support her positions. Defendant did not ask Plaintiff to produce those documents. Accordingly, Plaintiff's response that she cannot produce the requested documents is simply not responsive. Defendant asks Plaintiff to identify any responsive documents. Plaintiff has not done so. Plaintiff must provide a response that answers the actual interrogatory at issue. Plaintiff can say no document exists or, if a document does exist, Plaintiff can provide a description of the document and explanation of whether it is still in Plaintiff's possession, custody, or control.

Grant the motion and order Plaintiff to provide supplemental further responses to the challenged interrogatories.

II. Sanctions

If a motion to compel is granted and the moving party properly asks for monetary sanctions, the court "shall" order the party to whom the discovery was directed to pay the propounding party's reasonable expenses, including attorney fees, in enforcing discovery "unless it finds that the one subject to the sanction acted with substantial

justification or that other circumstances make the imposition of the sanction unjust." (CCP § 2023.030(a).)

Defendant was successful on this motion. There is no apparent justification for Plaintiff's failure to respond to discovery completely and with more thoughtful and coherent responses. Sanctions are appropriate.

Attorney Herrmann states she spent at least six (6) hours drafting the motion, 0.5 hours meeting and conferring with Plaintiff's counsel, and expects to spend 3.5 hours in responding to the Opposition and attending the hearing on the motion. At an hourly rate of $260/hour, Attorney Herrmann asks for $2,660 in sanctions for each motion. The requested amount is excessive given the overlap between the motions, as the discovery served to Plaintiff Juan Soriano is identical to that served on Plaintiff Esmeralda Bahena Franco and their responses were identical. Furthermore, anticipating 3.5 hours to reply to each Opposition and attend the hearing is excessive.

The motion is granted to compel Plaintiff Esmeralda Bahena Franco to produce further substantive verified responses to Special Interrogatories, Nos. 9, 12, 15, 18, 21, 24, 27, and 30.

Monetary sanctions are awarded against Plaintiff and in favor of Defendant in the amount of $1,300 per motion ($260/hour for 5 hours)