

**Judge Mosbarger – Law & Motion – Wednesday, March 5, 2025 @ 9:00 AM  
TENTATIVE RULINGS**

**1. 23CV01734 CUDNEY, BILLIE ET AL V. OROVILLE HOSPITAL ET AL**

*EVENT: Motion for Leave to Amend Complaint to Substitute Successor-in-Interest and to Allege Wrongful Death*

The Motion is unopposed and is granted. Plaintiffs' First Amended Complaint shall be filed and served within 10 days' notice of this ruling. Counsel for the Plaintiffs shall submit a form of order within two weeks.

**2. 24CV00795 STIEFVATER, RYAN J ET AL V. STIEFVATER, GARY G ET AL**

*EVENT: Motion for Protective Order Barring Plaintiffs' Counsel from Referring to Trent Stiefvater as "Trent" During His Deposition*

Based upon the Court's Ruling of February 26, 2025, this Motion is moot and is denied on that basis.

**3. 24CV03383 JORGENSEN, CHRISTOPHER V. OROVILLE HOSPITAL ET AL**

*EVENT: Defendants' Demurrer to Plaintiff's Complaint*

As an initial matter, the Court notes that the purpose of a reply brief is to address arguments made in the Opposition; it may not be used to raise new arguments, present new authorities, or introduce new evidence. Points raised for the first time in a reply brief ordinarily will not be considered because such consideration would either deprive respondent of an opportunity to counter the argument or require the effort and delay of additional brief by permission. See, e.g., *Marriage of Khera & Sameer* (2012) 206 Cal.App.4th 1467, 1477 ("Obvious reasons of fairness militate against consideration of an issue raised initially in the reply brief[.]"). As such, the Defendants' Request for Judicial Notice is denied and the Court will not consider the newly presented argument that Defendants should not be subject to legal action for doing what it was legally mandated to do at the time [set forth substantively on pages 6-8 of the Reply Brief], as that argument was not raised in the Moving Papers, nor the Opposition.

As to the Defendants' argument that the Plaintiff's First Cause of Action – Medical Discrimination Failure to Accommodate; Second Cause of Action – Retaliation; Fourth Cause of Action – Failure to Prevent Discrimination, Harassment and Retaliation; and Fifth Cause of Action – Wrongful Termination may not be alleged against the individually named Defendants, the Plaintiff concedes this point and thus the Demurrer is sustained without leave to amend as to First, Second, Fourth, and Fifth Causes of Action against individual Defendants Robert Wentz, Jennifer Meyers, Erica Kroupa, and Carlie Adams.

As to the Third Cause of Action – Work Environment Harassment, the Court finds that Plaintiff has set forth sufficient facts to state a cause of action for work environment harassment pursuant to *Government Code* §§12923, 12940(j). See, CACI 2521A, CACI 2522A, and Plaintiff's Complaint for Damages at ¶¶ 55-63. Further, the Court finds that

the Complaint (specifically as it relates to the Third Cause of Action) is not so incomprehensible that Defendants cannot reasonably respond. See, *Lickiss v Financial Indus. Regulatory Auth.* (2012) 208 Cal.App.4th 1125, 1135. Thus, the Demurrer on the grounds of uncertainty is overruled.

Finally, as to the Fifth Cause of Action – Wrongful Termination, the Court finds that the allegations of the Complaint could trigger the application of the FEHA related statute of limitations [3-year limit for filing an administrative complaint (*Government Code* §12960(e)) and a 1-year limit for filing a civil action after receiving a right-to-sue letter (*Government Code* §12965(b))]. However, although the Complaint alleges receipt by Plaintiff of a “right-to-sue” letter [See Complaint at ¶7] and suggests compliance with the applicable procedure to invoke application of the above statutes of limitation, there is no indication of the date of receipt of said letter and the Complaint is therefore uncertain. Based on the face of Plaintiff’s Complaint and the allegations therein, the Demurrer to the Fifth Cause of Action is sustained, with leave to amend.

Any amended Complaint shall be filed and served within 10 days’ notice of this Order. Counsel for the Defendants shall submit a revised form of order consistent with this ruling within two weeks.