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ORDER DENYING PETITION FOR REVIEW, CALIFORNIA SUPREME COURT (NOVEMBER 25, 2025)

SUPREME COURT OF CALIFORNIA

JULIUS JANISSE,

Plaintiff and Appellant,

v.

MARTIN LUTHER KING JR. – LOS ANGELES (MLK-LA) HEALTHCARE CORPORATION,

Defendant and Respondent.

No. S293333

Petition for review denied

OPINION, COURT OF APPEAL OF THE STATE OF CALIFORNIA, SECOND APPELLATE DISTRICT, DIVISION FOUR (SEPTEMBER 3, 2025)

NOT TO BE PUBLISHED
IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA SECOND APPELLATE DISTRICT DIVISION FOUR

JULIUS JANISSE,

Plaintiff and Appellant,

v.

MARTIN LUTHER KING JR. – LOS ANGELES (MLK-LA) HEALTHCARE CORPORATION,

Defendant and Respondent.

No. B326593
(Los Angeles County Super. Ct. No. 19STCV27233)

JULIUS JANISSE,

Plaintiff and Respondent,

v.

MARTIN LUTHER KING JR. – LOS ANGELES (MLK-LA) HEALTHCARE CORPORATION,

Defendant and Appellant.

No. B328707

(Los Angeles County Super. Ct. No. 19STCV27233)

Appeals from a Judgment and an Order of the Superior Court of Los Angeles County, Kristin S. Escalante, Judge. Affirmed.

Before: TAMZARIAN, J., ZUKIN, P.J., COLLINS, J.

Julius Janisse sued his former employer, Martin Luther King Jr. – Los Angeles Healthcare Corporation (MLK) for various employment-related claims. By the time of trial, Janisse's claims against MLK consisted of two whistleblower causes of action, and a derivative cause of action for wrongful termination in violation of public policy. A jury returned a verdict in favor of MLK and against Janisse on all causes of action.

On appeal, Janisse challenges the judgment on numerous grounds, including: judicial bias; misconduct by the judge and defense counsel; evidentiary errors; instructional error; various verdict form errors; misconduct during closing argument; and inadequate jury deliberations. For the reasons discussed below,

we conclude none of his contentions has merit. We therefore affirm the judgment.

MLK also appeals from a post-judgment order denying its request, as the prevailing party, for costs incurred in the action.[1] MLK acknowledges that it failed to allocate its costs between those incurred in defending against Janisse's claims for violations of the Fair Employment and Housing Act (FEHA) and those incurred in defending against non-FEHA claims.[2] It nevertheless argues the trial court abused its discretion by denying MLK an opportunity to allocate its costs. We disagree and affirm the order.

FACTUAL AND PROCEDURAL BACKGROUND

The following facts are taken from the evidence presented at trial. Consistent with the substantial evidence standard of review for the jury's factual findings, we resolve every factual conflict in favor of the judgment and draw every reasonable inference in favor of the jury's findings. (*Davis v. Kahn* (1970) 7 Cal.App.3d 868, 847.)

Background

MLK operates a 131-bed hospital and three clinics in an unincorporated area of Los Angeles County.

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[1] We granted MLK's motion to consolidate Janisse's appeal from the judgment (Case No. B326593) and MLK's appeal from the post-judgment cost order (Case No. B328707) for briefing, argument, and decision.

[2] In the absence of a showing that the FEHA claims were frivolous, "only those costs properly allocated to non-FEHA claims may be recovered by the prevailing defendant." (*Roman v. BRE Properties, Inc.* (2015) 237 Cal.App.4th 1040, 1062 (*Roman*).)

In 2015, Janisse began his employment with MLK as a surgical technician working in perioperative services.

During his employment, Janisse received corrective action notices for various incidents. For example, in January 2016, Janisse received a verbal warning for speaking to nurse Juliana Rodriguez in a threatening manner. In April 2017, Janisse received another verbal warning for yelling and cursing at coworkers Adrian Casares and Chandler Svirillos. Based on these incidents, MLK sent Janisse to a class to learn better communication skills and anger management. Janisse also received a corrective action notice after sending an email to MLK's human resources department falsely accusing Casares of leaving dirty footprints in the operating room when, in fact, the footprints belonged to Janisse.

In 2017, Janisse lodged several complaints, known as risk incident reports (RIRs), with MLK's management regarding a variety of issues. The first RIR, dated May 16, 2017, concerned a pair of allegedly stolen shoes. A couple months later, Janisse lodged his second RIR, which concerned his dispute with Svirillos about which of them would set up an operating room for a procedure. The third RIR was about an employee who cut her finger outside the operating room. Janisse filed another RIR regarding a verbal confrontation between him, on the one hand, and Casares and Svirillos on the other, in the breakroom after Janisse told them to stop speaking negatively about another employee in the department. After an investigation into this RIR, "it was determined that better professional workplace communication [was] needed in the department."

Janisse also submitted RIRs regarding his ongoing workplace conflict with Casares, whom according to Janisse, had a gang affiliation. Specifically, in one of the RIRs, Janisse stated that because of the "hostile unpredictable behavior" of Casares, he felt "in fear of [his] life when at work." After an investigation, it was "determined there was no valid threat. [Janisse] has communicated with HR, and has been instructed to keep them informed if any further issues arise." In response to an additional RIR regarding Casares's alleged "abusive language and derogatory statements[,]" MLK conducted an investigation and determined "that there was little to no evidence to support harassment allegations."

Janisse also complained that Svirillos had not properly cleaned a machine in a surgical suite. MLK investigated this report, and "determined that there was no unsafe condition created" because Janisse's assertion regarding proper cleaning procedure for the machine was contrary to the procedure outlined in the instructions from the machine's manufacturer.

Events leading to Janisse's termination

In October 2018, nurse Aiwen Young submitted a confidential RIR regarding a failure to comply with hygiene protocols during surgery. Specifically, according to nurse Young, Janisse broke aseptic technique, *i.e.*, "broke scrub," by leaving the operating room during a surgical procedure and failing to perform a surgical scrub before reentering the operating room.

MLK's supervisors investigated nurse Young's report and met with Janisse to discuss it. Janisse did not deny he had broken scrub. MLK verbally warned Janisse and instructed him to adhere to the hygiene

protocol. Janisse asked who reported him, and MLK instructed Janisse to refrain from trying to find out that information.

Immediately after his meeting with MLK's management, Janisse confronted nurse Young. Janisse "went up to [nurse Young] and was talking about the situation and looked at her and said I know you didn't snitch on me. And when she said, I did. I reported it, he then said I'm going to kill you."

Nurse Young reported Janisse's threat to MLK's management in a subsequent RIR. Another nurse also corroborated nurse Young's account.

Janisse's confrontation of Young for filing a confidential RIR, and his threat to kill Young, were both violations of MLK's policies. MLK therefore placed Janisse on paid administrative suspension pending an investigation of his confrontation with nurse Young. MLK's management interviewed nurse Young and the other nurse who witnessed the incident, both of whom confirmed their initial reports. MLK's managers also met in-person with Janisse. MLK ultimately found that Janisse "confronted somebody who had made an incident report and then threatened to kill them," which were both violations of company policy. Based on these findings, MLK terminated Janisse's employment in November 2018.

This lawsuit

In August 2019, Janisse sued MLK. The complaint asserted causes of action for: (1) violation of Health and Safety Code section 1278.5; (2) violation of Labor Code sections 98.6 and 1102.5 (Whistleblowing); (3) violation of Labor Code section 6310; (4) recovery of civil penalties pursuant to the Cal/OSHA (Labor

Code section 6427 et seq.); (5) discrimination in violation of FEHA; (6) hostile work environment in violation of FEHA; (7) retaliation in violation of FEHA; (8) failure to take all reasonable steps necessary to prevent discrimination, retaliation, and harassment; and (9) wrongful discharge in violation of public policy.

MLK moved for summary judgment, or in the alternative, summary adjudication. The court granted summary adjudication of Janisse's claims for Cal/OSHA civil penalties (fourth cause of action) and for a hostile work environment under FEHA (sixth cause of action).

Before jury selection, Janisse dismissed his first cause of action for whistleblower retaliation under Health and Safety Code section 1278.5 and his fifth cause of action for racial discrimination under FEHA. Shortly before the end of trial, Janisse also dismissed his remaining FEHA causes of action for retaliation (seventh cause of action) and for failure to prevent discrimination, retaliation, and harassment (eighth cause of action).

The court granted a directed verdict for MLK on Janisse's factual theory that he experienced whistleblower retaliation for having made a complaint of racial harassment or discrimination. The court also granted MLK's motion for a directed verdict on Janisse's claim for punitive damages, finding that "no reasonable jury could find clear and convincing evidence of malice or oppression" on the part of MLK's managing agents.

After several weeks of trial, Janisse's remaining whistleblower retaliation claims (second and third causes of action), and his claim for wrongful discharge

in violation of public policy (ninth cause of action) were submitted to a jury. The jury returned a verdict in favor of MLK and against Janisse on all causes of action. The jury found Janisse had not engaged in any protected whistleblowing conduct because he made no bona fide complaints regarding employee or patient safety at MLK.

Janisse moved for a new trial and for judgment notwithstanding the verdict (JNOV). In a 20-page written ruling, the trial court denied the motions.

Following the entry of judgment, MLK filed a memorandum of costs and a motion to recover its costs as a prevailing party under Code of Civil Procedure sections 998 and 1032. Janisse opposed the motion and moved to tax MLK's costs in their entirety. The trial court denied MLK's motion for costs and granted Janisse's motion to tax costs.

Janisse appealed from the judgment and the denial of his motion for JNOV. MLK appealed from the post-judgment order denying it prevailing party costs. As noted above, we granted MLK's motion to consolidate the appeals.

DISCUSSION

I. Janisse's Appeal from the Judgment and Denial of JNOV

Before turning to the merits, we note that many of Janisse's arguments are confusingly and improperly framed as "judicial misconduct" when, in fact, he merely contends the trial court made evidentiary errors or abused discretion in some other way. We arrange his arguments more coherently by categorizing them under appropriate headings below. To the extent

we do not address an argument in Janisse's opening brief, we deem it forfeited. (*See Pizarro v. Reynoso* (2017) 10 Cal.App.5th 172, 181 [failure to provide proper headings and coherent organization to the appellant's arguments forfeits consideration of those arguments on appeal].)

A. Judicial Bias

Janisse's first judicial bias claims are premised on purported discussions the trial court had with other Los Angeles Superior Court judges who never presided over the case. Specifically, Janisse contends the trial court "was apparently influenced" by communications she might have had with two other judges about the conduct of Janisse's counsel, Twila White, in other cases. Janisse also accuses yet another judge, who similarly had no involvement in this case, of influencing the trial court based on his supposed "close relationship" with MLK's defense counsel. MLK maintains Janisse forfeited these challenges by failing to raise them with the trial court and, alternatively, the claims lack merit. We agree with MLK in both respects.

"As a general rule, judicial misconduct claims are not preserved for appellate review if no objections were made on those grounds at trial." (*People v. Sturm* (2006) 37 Cal.4th 1218, 1237; *see also Moulton Niguel Water Dist. v. Colombo* (2003) 111 Cal.App.4th 1210, 1218 (*Colombo*) [defendants "did not preserve their claim of judicial bias for review because they did not object to the alleged improprieties and never asked the judge to correct remarks made or recuse himself"].) This rule exists to prevent a defendant from going "to trial before a judge and gamble on a

favorable result, and then assert for the first time on appeal that the judge was biased." (*People v. Rodriguez* (2014) 58 Cal.4th 587, 626.)

Janisse never objected below—either during pre-trial proceedings or during trial—to any alleged improper communications between judges, or between MLK's defense Counsel and judges not assigned to this case. Nor did he move to disqualify the trial judge. Janisse thus forfeited these claims. (*Colombo, supra*, 111 Cal.App.4th at p. 1218.)

Even if preserved, Janisse's arguments fail on the merits. Arguments for reversal based on judicial bias generally are grounded in the due process clause, "which sets an exceptionally stringent standard." (*Schmidt v. Superior Court* (2020) 44 Cal.App.5th 570, 589 (*Schmidt*).) "It is 'extraordinary' for an appellate court to find judicial bias amounting to a due process violation. [Citation.] The appellate court's role is not to examine whether the trial judge's behavior left something to be desired, or whether some comments would have been better left unsaid, but to determine whether the judge's behavior was so prejudicial it denied the party a fair, as opposed to a perfect, trial." (*Ibid.*)

Janisse's claims of bias based on the trial court's alleged communications with other judges or the purported misconduct of other judges are entirely speculative. For example, Janisse claims that on one occasion, a judge assigned to the same courthouse but not presiding over this case "went outside to the Grand Avenue exit where [MLK's Counsel and its corporate representative] were, and *presumably* talked with him." (Italics added.) On another occasion, Janisse claims that same judge "snarkly" called his attorneys

"'trial attorneys'" in the courthouse hallway. Janisse concedes he is "unaware of the specifics of the communications among [the judges]," but contends the communications "cast a veil of impropriety over the proceedings[.]" These allegations of bias based on mere suspicion or belief do not come close to supporting a reversal of the judgment. (*Schmidt, supra*, 44 Cal.App.5th at p. 589.)

Moreover, there is nothing inherently improper about judges talking to their judicial colleagues about a case. The Canons of Judicial Ethics permit such communications. (See Rothman et al., Cal. Judicial Conduct Handbook (4th ed. 2017) § 5:9, p. 274 ["Canon 3B(7)(a) of the Code of Judicial Ethics permits a judge to 'consult with other judges'"].) Nor are judges under any obligation to disclose any professional relationship they might have with defense counsel, whether presiding over that counsel's case or not. (*See id.* at § 7:32, p. 433 ["The fact that a judge and an attorney are members of the same professional legal organization, or that the judge has only a professional relationship with the attorney, does not normally require the judge to either recuse or disclose when the attorney appears before the court"] (fn. omitted).)

1. Interactions with Defense Counsel

Janisse further contends that the trial court's interactions with defense Counsel demonstrate the court engaged in misconduct or exhibited impartiality. He argues the trial court and MLK's trial Counsel "engaged in non-verbal gestures, sometimes eyeballing one another and giving each other cues, and nods of the head, as if they were aligned." He further claims that MLK's Counsel was "very aggressive with the

court, telling [the trial court] what she must do[,]" which, according to Janisse, resulted in the jury witnessing "what appeared to be an orchestrated 'dog and pony show' between [MLK's counsel] and the court."

Again, Janisse forfeited this argument by not objecting below. (*See Colombo, supra*, 111 Cal.App.4th at p. 1218; *see also Cassim v. Allstate Ins. Co.* (2004) 33 Cal.4th 780, 794 [to preserve an instance of misconduct of Counsel in the presence of the jury, an objection must have been lodged at trial].) Even if preserved, Janisse fails to point to any specific conduct by defense counsel, witnessed by the jury, that was improper.[3] He has, therefore, failed to meet his burden of demonstrating bias or misconduct.

2. Interactions with Janisse's Counsel

Throughout his brief on appeal, Janisse points to several interactions between the trial court and his counsel, which he argues demonstrate judicial misconduct or bias. For example, Janisse claims: (1) "[the court] would cut-off [his counsel] and yell at her in front of the jury"; (2) the court frequently interrupted

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[3] Janisse's "dog and pony show" allegations are not supported by the record. Janisse cites an excerpt of the record during voir dire in which the only statement made by MLK's Counsel was "Objection, your honor." The court sustained the objection. The only other record citation Janisse provides is another instance during voir dire in which the court sustained two of MLK's counsel's objections to questions posed to the jury by Janisse's counsel. These instances do not demonstrate bias or misconduct by the trial court or misconduct by defense counsel. (*See Nevarez v. Tonna* (2014) 227 Cal.App.4th 774, 786 [rulings against a party, even if erroneous, do not establish a charge of judicial bias].)

his counsel, "urging her to 'move on'", "instructed her to 'wrap things up'", stated her contributions were not helpful and accused her of "'not making good use of her time'"; (3) the court announced "to the jurors that the trial would not conclude by the initially expected date of November 15, 2022 (implying [Janisse's counsel] was to blame)"; (4) his Counsel was "interrupted by the court while presenting important evidence at least 17 times"; (5) "the court told [Janisse's counsel] in front of the jury to 'Be Careful', insinuating that [she] had done something inappropriate"; (7) the court "overtly scolded and used a condescending tone and attitude towards [his counsel]—in front of the jury"; and (8) the court "berated" his Counsel during closing arguments.

It is "'well within [a trial court's] discretion to rebuke an attorney, sometimes harshly, when that attorney asks inappropriate questions, ignores the court's instructions, or otherwise engages in improper or delaying behavior.'" (*People v. Snow* (2003) 30 Cal.4th 43, 78.) "Indeed, '[o]ur role . . . is not to determine whether the trial judge's conduct left something to be desired, or even whether some comments would have been better left unsaid. Rather, we must determine whether the judge's behavior was so prejudicial that it denied [the plaintiff] a fair, as opposed to a perfect, trial.'" (*Ibid.*)

Applying these principles, and upon examination of the record, we conclude none of the cited instances suggest that the trial court exhibited a degree of bias that deprived Janisse of a fair trial. In many instances, Janisse's record citations do not support his assertions.[4]

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[4] Some examples include: Janisse claims that his Counsel was

In other instances, Janisse completely misrepresents the record.[5]

Finally, contrary to Janisse's assertions that the court acted improperly by interrupting his Counsel and urging her to "move on," the record demonstrates

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berated by the court. As support for this assertion, Janisse cites a sidebar during closing argument when the court merely stated that Janisse's Counsel was making an improper argument so it was "going to admonish [counsel] not to use that form of argument. . . . " In support of his assertion that the trial court implied his Counsel was to blame for trial not concluding by the initially expected date, Janisse cites a page of the record that in no way implies Janisse's Counsel was to blame. The court stated: "I've been really monitoring the time and I was very hopeful that we were going to be able to be guaranteed to [be] finished by November 15th. Now, I'm not – I cannot guarantee that anymore. So with that I am going to thank and excuse you. Thank you very much for being here. I know you have your out-of-town trip on the 15th."

[5] For example, Janisse argues the court "overtly scolded and used a condescending tone and attitude towards [his counsel]—in front of the jury." Not one record citation involves an exchange between the court and Janisse's Counsel when the jury was present. We also note that, in support of his assertion that the court would "cut-off [his counsel] and yell at her in front of the jury", Janisse cites pages of the appendix that purportedly include screenshots from another judge's personal social media account. Not only does the cited-to evidence fail to show the trial court yelling at Janisse's counsel, but those pages also were not filed in the trial court. We admonish Janisse's Counsel for including materials in the appendix that were not filed in the trial court, and order those materials stricken from the appendix. (*See* Cal. Rules of Court, rule 8.124(g) ["Filing an appendix constitutes a representation that the appendix consists of accurate copies of documents in the superior court file. The reviewing court may impose monetary or other sanctions for filing an appendix that contains inaccurate copies or otherwise violates this rule"].)

the court acted well within its broad discretion to control its courtroom. (*See California Crane School, Inc. v. National Com. for Certification of Crane Operators* (2014) 226 Cal.App.4th 12, 22 [court has inherent authority to limit time of trial presentation].) Indeed, the trial court is obligated to make sure the trial proceeds efficiently while giving the parties a fair opportunity to present their respective cases. (See Evid. Code, § 765, subd. (a) [the court shall control the examination of witnesses "so as to make interrogation as rapid, as distinct, and as effective for the ascertainment of the truth"]; Cal. Rules of Court, rule 3.713(c) ["It is the responsibility of judges to achieve a just and effective resolution of each general civil case through active management and supervision of the pace of litigation from the date of filing to disposition"].) "'Judges need to be proactive from the start in both assessing what a reasonable trial time estimate is and in monitoring the trial's progress so that the case proceeds smoothly without delay.'" (*People v. ConAgra Grocery Products Co.* (2017) 17 Cal.App.5th 51, 149.)

We cannot, of course, ascertain from the reporter's transcript the trial court's tone and demeanor. We note, however, that in its order denying Janisse's motion for a new trial, the court denies Janisse's accusations: "The court did not yell, treat [Janisse's counsel] in a condescending manner, or favor the defense in any manner."

B. Voir Dire

Next, Janisse contends the trial court engaged in "judicial misconduct" by "impos[ing] unreasonable limitations on the scope and depth of inquiry" during

his counsel's voir dire of prospective jurors. His arguments, however, boil down to whether the trial court properly exercised its discretion during voir dire. (*See People v. Benavides* (2005) 35 Cal.4th 69, 88 ["An appellate court applies the abuse of discretion standard of review to a trial court's conduct of the voir dire of prospective jurors"].) The record demonstrates the trial court was well within its discretion.

Code of Civil Procedure section 222.5, subdivision (b)(1) provides, in relevant part: "The scope of the examination conducted by Counsel shall be within reasonable limits prescribed by the trial judge in the judge's sound discretion." After reviewing the record we conclude that, contrary to Janisse's assertion, the trial court afforded Janisse's Counsel ample time to conduct voir dire after the court's own extensive voir dire.[6]

Janisse also argues the trial court erred by prohibiting his Counsel from using the word "power" during voir dire, and barring her from referring to personal anecdotes. Janisse asserts: "The court provided no law or precedent that Counsel cannot use such statements or refer to personal anecdotes during voir dire." We may treat this undeveloped argument as forfeited. (*See Benach v. County of Los Angeles* (2007) 149 Cal.App.4th 836, 852 (*Benach*) ["When an appellant fails to raise a point, or asserts it but fails to support it with reasoned argument and

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[6] The court originally set a guideline of "about 40 minutes" for each side to conduct voir dire. Janisse requested additional time. The court expressed 40 minutes was sufficient, but went on to state: "But just out of abundance of caution I will give you that extra 20 minutes because you are requesting it."

citations to authority, we treated the point as [forfeited]"].)

Janisse's argument also fails on the merits. Counsel for MLK submitted to the trial court "an excerpt of voir dire that [Janisse's] Counsel had conducted in a prior trial." That excerpt included the following statement by Janisse's counsel: "'So I want to talk about power. . . . If you end up on this jury, you'll have immense power, all right? You'll have more power than anyone in the state, in fact anyone in the world in deciding this case. . . . You'll even have more power than the judge in this case.'" This kind of monologue by Counsel is not permitted. Code of Civil Procedure section 222.5 permits "examination" of prospective jurors; it does not permit Counsel to give speeches or provide anecdotes. Janisse does not cite any authority to support his position.

Moreover, as the trial court explained, Janisse's proposed statements about the jury's "power" were potentially misleading. The court reasoned: The jury does not "have the power to order anybody to do anything. . . . [¶] What they have the obligation and responsibility to do is to listen to the evidence, to follow the judge's instructions and make factual findings. . . . They have no power. . . . [¶] [I]t will be improper to suggest that they have the power to do something as opposed to the obligation to follow the court's instructions." The trial court did not abuse its discretion by prohibiting Janisse's Counsel from making statements during voir dire about the jury's "power."

Janisse also complains that his Counsel was not permitted to use an easel during voir dire. The trial court explained to Janisse's counsel: "You can't have that easel there. I can't see the jury and in jury selec-

tion I need to be able to see the jury, so that has to move." The court then inquired why Janisse's Counsel needed the easel and Counsel responded: "To take notes." The court replied: "No no. So that easel needs to come down right now. Can you move it, please?" Without citation to authority, Janisse argues "[t]his incident, though seemingly minor in isolation, contributes to a broader narrative of concern regarding the unfairness and impartiality throughout the trial proceedings." We reject this meritless accusation. The above-cited exchange occurred outside the presence of the jury, and the court acted within its discretion to order the removal of a physical obstruction so it could observe the demeanor of prospective jurors.

C. After-Acquired Evidence Defense

"The doctrine of after-acquired evidence refers to an employer's discovery, *after* an allegedly wrongful termination of employment or refusal to hire, of information that would have justified a lawful termination or refusal to hire." (*Salas v. Sierra Chemical Co.* (2014) 59 Cal.4th 407, 428.) If the employer shows it discovered information that would have caused it to terminate the employee for an alternative, lawful reason, the employee's recovery is limited or barred. (*Id.* at p. 430.)

Janisse contends the trial court prejudicially erred by permitting MLK to pursue an after-acquired evidence defense that it failed to raise until after discovery had closed and after trial proceedings had already commenced. MLK's defense was based on Janisse's post-termination admission to his psychiatrist, Dr. Thomas Willet, that he had previously been terminated from Kaiser hospital for threatening a physi-

cian. This evidence, however, was never presented to the jury. The trial court bifurcated the trial so that the evidence in support of MLK's after-acquired evidence defense would be presented *only if* the jury first found MLK liable. Because the jury found MLK was not liable, there was no second phase of trial, and the jury heard no evidence on the after-acquired evidence defense.[7]

Accordingly, even if we assume (without deciding) that the trial court abused its discretion in permitting MLK to pursue a defense that, in Janisse's view, was not timely disclosed, Janisse cannot show he was prejudiced. (*See*, *e.g.*, *De Leon v. Jenkins* (2006) 143 Cal.App.4th 118, 128–129 ["We need not reach the merits of this contention, as it provides no basis for reversal in light of [appellant's] failure to show any prejudice from the trial court's purportedly erroneous ruling"].)

D. Evidentiary Rulings

1. Evidence that Janisse threatened MLK nurse Rodriguez in 2016

Janisse contends "MLK's opening statement . . . alleged Janisse had threatened an employee, Juliana Rodrigue[z], in January 2016; this allegation had never been disclosed in discovery and Rodrigue[z] had never been identified as a potential witness." First, we note the record citations provided in sup-

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[7] Without citation to the record, Janisse claims "Dr. Willett [] testified that Janisse had threated a physician at Kaiser. . . . " Dr. Willett did not testify in the jury's presence that Janisse threatened a doctor at Kaiser. He so testified only in the earlier Evidence Code section 402 hearing.

port of this assertion do not include MLK's opening statement. Second, there was no pretrial "allegation" MLK was obligated to disclose—at trial, after Janisse denied he ever threatened his coworkers, MLK introduced evidence (through the testimony of former MLK supervisor Ozell Diaz) that Rodriguez had reported that Janisse threated her and Janisse was given a verbal warning. The trial court acted within its discretion by admitting this impeachment testimony. (See Evid. Code, § 780, subd. (i) [a jury may consider "any matter that has any tendency in reason to prove or disprove the truthfulness" of a witness's testimony, including "[t]he existence or nonexistence of any fact testified to by [the witness]"]; *see also People v. Turner* (2017) 13 Cal.App.5th 397, 408 ["The trial court has broad discretion in determining whether to admit impeachment evidence"].)

2. Testimony of Janisse's psychiatrist

Janisse designated Dr. Willett as a psychiatric expert before trial, but later de-designated him. At trial, MLK sought to call Dr. Willett as Janisse's treating physician. Before admitting the testimony, the trial court held an Evidence Code section 402 hearing.[8]

At the hearing, the court ruled Dr. Willett would be permitted to testify that Janisse's posttraumatic stress disorder (PTSD) that he was currently suffering from was a result of the combination of his earlier termination from Kaiser and his termination from

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[8] Evidence Code section 402, subdivision (b) provides, in relevant part: "The court may hear and determine the question of the admissibility of evidence out of the presence or hearing of the jury. . . . "

MLK. Weighing the factors in Evidence Code section 352, the court found that Dr. Willet's proposed testimony about Janisse's emotional distress arising from his termination from Kaiser was "extremely relevant" as an alternative source of damages, and that its probative value outweighed any prejudice to Janisse. The court further ruled, however, that testimony about the reason for Janisse's termination from Kaiser is not highly relevant and would be unduly prejudicial to Janisse. It therefore excluded testimony by Dr. Willett about the reasons for Janisse's termination from Kaiser under Evidence Code section 352.

At trial, Dr. Willett testified that Janisse's emotional distress was partly due to a "prior termination from Kaiser Hospital approximately three years before." He also answered "yes" to the question: "[D]id Mr. Janisse express his symptomology through anger?" Dr. Willett explained that, during their second meeting, Janisse became "extremely angry with [him]" and when he repeated it was time to leave, Janisse "opened the inner door to my waiting room rather forcefully and exited my office. He was quite angry."

Janisse argues that the trial court "failed to act in its role as gatekeeper of expert testimony" because: Dr. Willett lacked the requisite level of expertise; he was permitted to testify on matter far more prejudicial than probative; and he was permitted to answer questions that were clearly improperly eliciting character evidence. We reject these arguments because they are undeveloped and fail to apply the applicable standard of review. (*See Lowery v. Kindred Healthcare Operating, Inc.* (2020) 49 Cal.App.5th 119, 124 [we review a trial court's ruling excluding or admitting expert testimony for abuse of discretion].) Further,

after independently reviewing the record, we discern no abuse discretion in the trial court's Evidence Code section 352 ruling.

Janisse also argues that Dr. Willett should not have been permitted to opine that Janisse's emotional distress was caused in part by his termination from a prior job because this was a "prohibited causation issue[.]" Janisse cites no legal authority in support of this contention, and in fact, the case law states the contrary. (*See Lewis v. City of Benicia* (2014) 224 Cal. App.4th 1519, 1538 [psychologist's testimony about sources of emotional distress is relevant to causation in FEHA retaliation action].)

We conclude Janisse has not demonstrated the court abused its discretion by admitting portions of Dr. Willett's testimony.

3. Videotaped deposition testimony

In its ruling denying Janisse's motion for a new trial, the trial court found that Plaintiff's Counsel "repeatedly violated the court's order regarding the designations" of video deposition testimony Janisse intended to play at trial. The court went on to explain exactly how those orders were violated, and concluded: "Plaintiff's Counsel repeatedly violated the court's order regarding designations, but Plaintiff was permitted to present the portions of the depositions that had been requested. Plaintiff's argument that the court 'disallowed' Plaintiff's clips is false."

On appeal, Janisse does not address the court's above-cited ruling. Rather, he argues that the court precluded more than 20 witness clips of nurse Young (the nurse who reported Janisse threatened to kill

her) and nurse Oshunluyi (who witnessed the threat), "which were significant to demonstrate pretext, and contradictions between the two witnesses, and inconsistencies in their testimony." He further claims that the court scolded his lawyer for technological problems, and refused to allow "Janisse's clips for rebutting Young's statements." These general arguments fail to provide an accurate description of the proceedings relating to the video deposition excerpts, and lack the specificity necessary to demonstrate an abuse of discretion. (*See Briley v. City of West Covina* (2021) 66 Cal.App.5th 119, 132 ["'[W]e will not disturb the trial court's [evidentiary] ruling "except on a showing the trial court exercised its discretion in an arbitrary, capricious, or patently absurd manner that resulted in a manifest miscarriage of justice"'"]; *see also Paterno v. State of California* (1999) 74 Cal.App.4th 68, 106 (*Paterno*) ["the appellant bears the duty of spelling out in his brief exactly how the error caused a miscarriage of justice"].)

4. Janisse's damages witnesses

Janisse argues he was denied the opportunity to call his two damages witnesses (his wife and daughter) because the court instructed her she was running out of time. This statement is inaccurate. Janisse called his wife as a witness, and she testified regarding his mental state after he was terminated. And although the court initially ruled Janisse could not call both his wife and his daughter because the testimony would be cumulative, it later reconsidered the ruling and "did not restrict Plaintiff from calling both his wife and daughter."

5. Flex leaves and MLK's charity program

Janisse sought to introduce testimony regarding the denial of his "flex leave" request. Specifically, he wanted to testify as to *why* he purportedly needed "flex leave". The trial court sustained an objection by MLK on relevance grounds, concluding: "I'm going to uphold the relevance objection. This whole denial of a flex, the plaintiff has presented a list of adverse employment actions that they are basing their suit on. The flex is not any part of – it's not a part of any of those adverse employment actions. [¶] There has already been a lot of testimony on this. I don't think the reason that he was seeking to flex is relevant to any issue in the case under [Evidence Code section] 352. It's undue consumption of time." Janisse argues the evidence was relevant to show MLK retaliated against him, and to show he was not threatening to his coworkers (Janisse claims it makes "no sense" that MLK would not grant him a day off if he was threatening). He does not, however, dispute that he never alleged the denial of flex leave was an adverse employment action. In any event, even if tangentially relevant, he has not demonstrated an abuse of discretion, and has failed to show any resulting prejudice. (*Paterno, supra,* 74 Cal.App.4th at p. 106.)

We likewise reject Janisse's argument that the trial court erred by excluding evidence he participated in MLK's "Give Hope" charity program. Janisse does not explain how his participating in a charity program was relevant to rebut MLK's claims that he was threatening and had communication problems. And again, he does not show how the exclusion of this evidence was an abuse of discretion or prejudicial.

6. Janisse's prostate cancer diagnosis

The trial court excluded evidence that Janisse had been diagnosed with prostate cancer under Evidence Code section 352: "I think it's highly prejudicial to the defendant on the fact that it elicits sympathy from the jury." The court explained that the only potential relevance of this evidence is if Janisse was left without medical insurance when he was terminated and the lack of medical insurance greatly increased his emotional distress because he had cancer and "now he's left without medical insurance." This was not the case, however, because Janisse was eligible for Medicare when MLK terminated his employment.

The court further noted the evidence would potentially be admissible if MLK sought to elicit testimony that Janisse had been prescribed psychiatric medication. In that scenario, Janisse would have been permitted to explain why he chose not to take it (*i.e.*, he was undergoing cancer treatment). But MLK stated it had no intention of eliciting such testimony, and it did not do so.

Thus, the trial court reasonably exercised its discretion by excluding evidence of Janisse's cancer diagnosis as substantially more unduly prejudicial than probative.[9]

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[9] Even if Janisse's cancer diagnosis was relevant to the issue of damages, he has not demonstrated undue prejudice because the jury did not reach the issue of damages given its no liability finding.

7. Other evidentiary rulings

In his opening brief, Janisse lists "examples" of when his Counsel was purportedly "interrupted by the court while presenting important evidence." Several of these examples are simply instances in which the trial court sustained objections. For instance, the court sustained MLK's objection on relevance grounds during Janisse's testimony regarding the conduct of MLK employee Svrillos. In another example, Janisse argues his attorney tried to explain the relevance of documents "but the court cut her off and told her that the information she was trying to introduce has no relevance." Janisse fails to demonstrate how the court purportedly abused its discretion with respect to any of these rulings, or how any alleged error might have been prejudicial.

E. Jury Deliberations

Janisse argues "exhibits never made it to the jury and the jury rushed through the Special Verdict form." In support of this assertion, Janisse claims the jury could not have possibly answered "no"—in light of the evidence presented—to the question that asked whether Janisse complained about employee and patient safety. We are unpersuaded by this argument. First, the brevity of a jury's deliberations does not prove that it did not deliberate adequately. (*See*, *e.g.*, *People v. Williams* (2015) 61 Cal.4th 1244, 1280 ["'the brevity of the deliberations proves nothing'"]; *see also Vomaska v. City of San Diego* (1997) 55 Cal.App.4th 905, 913 [the jury """may render a valid verdict without retiring, or on very brief deliberation after retiring"""].) Second, to the extent Janisse is actually arguing that substantial evidence does not support

the jury's special verdict findings, we deem this challenge forfeited.

"We do not review the evidence to see if there is substantial evidence to support the losing party's version of events. Our power begins and ends with a determination if there was substantial evidence in the winning party's favor. For this reason, [appellant is] required to set forth, discuss, and analyze both the favorable and unfavorable evidence. ""Unless this is done the error is deemed to be [forfeited].'" [Citation.]'" (*Ashby v. Ashby* (2021) 68 Cal.App.5th 491, 513.)

Here, Janisse failed to state the facts in the light most favorable to MLK as the prevailing party. For example, many of his complaints concerned his interpersonal conflicts with coworkers, Casares and Svirillos, and were not about patient safety issues. Janisse also fails to cite the evidence showing he walked through an operating room that Casares had just mopped in order to soil it with his footprints so he could then lodge a false complaint against Casares. Thus, any substantial evidence argument is forfeited.

F. Jury Instructions

Janisse argues the trial court erred by refusing to give a "cat's paw" jury instruction, CACI No. 2511.[10] We disagree.

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[10] Under the cat's paw doctrine, employers may be held "responsible where discriminatory or retaliatory actions by supervisory personnel bring about adverse employment actions through the instrumentality or conduit of other corporate actors who may be entirely innocent of discriminatory or retaliatory animus." (*Reeves v. Safeway Stores, Inc.* (2004) 121 Cal.App.4th 95, 116.)

"""In a civil case, each of the parties must propose complete and comprehensive instructions in accordance with his theory of the litigation; if the parties do not do so, the court has no duty to instruct on its own motion.' [Citation.]"" (*Metcalf v. County of San Joaquin* (2008) 42 Cal.4th 1121, 1130–1131.)

Before trial began, the court discussed the proposed cat's paw instruction with counsel. After noting the instruction had not yet been completed (*i.e.*, blanks needed to be filled in) the trial court stated: "So I'm going to withhold ruling on this instruction until we see how the evidence comes in." The court further stated: "Again, I will have to see how the evidence comes in. Who is the person to make the decision to discharge. I don't know exactly who that is." As the trial court explained in its order denying Janisse's motion for new trial, however, Janisse "did not renew the request for CACI [No.] 2511, did not include it in the final jury instruction packet that [Janisse] was required to prepare, did not propose revisions based on the evidence presented, and essentially dropped the request for the instruction." Thus, Janisse never submitted a completed, usable CACI No. 2511 instruction, the trial court never denied a request to give the instruction, and Janisse has forfeited this argument on appeal. (*Martinez v. Rite Aid Corp*. (2021) 63 Cal.App.5th 958, 972, fn. 4 [appellant "cannot claim error in the failure to give a jury instruction it did not request"].)

In these situations, the formal decision maker is sometimes referred to as the "cat's paw" of the supervisor harboring retaliatory animus. (*Reid v. Google* (2010) 50 Cal.4th 512, 542.)

Moreover, even if the court erred by not giving the instruction, Janisse cannot demonstrate prejudice. The jury found Janisse engaged in no protected activity, and thus, MLK was not liable. The jury, therefore, did not reach the question pertaining to a cat's paw instruction, *i.e.*, retaliatory animus.[11]

G. Verdict Form

Janisse argues there were several issues with the verdict form. He claims the verdict form was subjected to multiple changes within 10 minutes of the jury being brought in without Janisse being informed about it; upon notifying the court that the verdict form was wrong, the court did not explain the change made and instead overruled Janisse's counsel's objections; the court allowed MLK's defense Counsel to display a PowerPoint slide that was the wrong verdict form, over Janisse's counsel's objection; and Janisse's Counsel informed the court of when there was an error or misrepresentation of a particular rule or law but the court would not listen and "shut [Janisse's counsel] down."

None of these arguments support reversal of the judgment. Janisse does not articulate any specific claim of error, and cites no supporting authority. His arguments are, therefore, forfeited. (*See Benach, supra,* 149 Cal.App.4th at p. 852.) Janisse also has not established prejudice as a result of any purported error in the special verdict form. His conclusory

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[11] We also note that on appeal, Janisse does not explain how the evidence might support a finding in his favor under CACI No. 2511. He does not articulate how any alleged biased MLK supervisor influenced the actions of an unbiased decisionmaker.

assertion that "last-minute changes prejudiced [him]" is insufficient to demonstrate prejudice. Nor does his assertion that his Counsel was required to make changes to the verdict form and make copies of it demonstrate a miscarriage of justice.

In any event, we discern no abuse of discretion. (*See Red Mountain, LLC v. Fallbrook Public Utility Dist.* (2006) 143 Cal.App.4th 333, 364 [the court's framing of the questions in a special verdict form is subject to review for abuse of discretion].) As the trial court noted, "last minute changes to the verdict form and instructions were required" because, after the close of evidence, Janisse informed the court that he would be dismissing certain claims, and "the court directed the verdict on certain issues." As to Janisse's argument regarding the PowerPoint slide, MLK's Counsel inadvertently displayed an outdated verdict form. That version included Janisse's FEHA retaliation claim, which Janisse had dismissed. Contrary to Janisse's assertion that his objection to the outdated form was overruled, the court— before any objection was made by Janisse's counsel—stated "that's the wrong verdict [form]" and the court believes "there is a mistake on the slide." MLK's Counsel responded: "I deleted it on my side. It didn't show up like that. I will skip over it. One issue was removed." Janisse has not demonstrated an abuse of discretion based on this exchange, nor any resulting prejudice.[12]

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[12] As we discussed in section I.E. regarding jury deliberations, to the extent Janisse is arguing substantial evidence does not support the special verdict findings, we conclude he has forfeited the issue by failing to state the evidence in the light most favorable to MLK. (*Ashby v. Ashby, supra,* 68 Cal.App.5th at p. 513.)

H. Directed Verdict on Punitive Damages

Janisse lastly contends the court erred by granting MLK's motion for a directed verdict on his punitive damages claim. His only argument is that the trial court was biased against him because it "predetermin[ed] the outcome of a crucial aspect of the trial." Critically missing from Janisse's argument is a discussion of any evidence that would have supported a finding in his favor on his punitive damages claim. Because the jury found MLK not liable on Janisse's substantive claims, it could not have imposed punitive damages even if that claim had gone to the jury. (*See Goodwin v. Wolpe* (1966) 240 Cal.App.2d 874, 880 ["As to exemplary damages, there could be no recovery unless there was ground to recover actual, substantial damages"].)

Janisse focuses on an exchange between the trial court and Counsel during the hearing on MLK's motion for a directed verdict. After both sides argued the punitive damages issue, the trial court interrupted MLK's Counsel by stating: "You are going to snatch victory from the jaws of defeat unless you feel like you need to make the record. All right. I have thought – I really spent a lot of time on this last night, thinking about this very carefully, going over all of the evidence in my mind. [¶] And I'm firmly convinced that no reasonable jury could find clear and convincing evidence of malice or oppression sufficient to support the punitive damages conclusion and especially I understand that there were managing agents, that a jury could find managing agents were involved in this decision, but I don't feel that there is sufficient evidence that the conduct was committed by the managing agents or that the conduct . . . [constituted]

malice oppression or fraud. . . . [¶] So I am going to, after much, much thought and consideration of the case law, I am going to direct the verdict on punitive damages and not allow that question to go to the jury." Janisse's Counsel responded: "That is clear reversible error." The court replied: "That's why we have a Court of Appeal. [¶] . . . [¶] I have to make my decisions based on my – that's my job is to make decisions and that is the decision that

I'm making. If that becomes an issue for appeal, then the Court of Appeal will ultimately have to decide the issue."

The trial court's remarks do not support Janisse's contention that the court harbored any bias against him. The court simply explained its role in the judiciary system and correctly noted that contentions of reversible error may be made on appeal.[13]

II. MLK's appeal from Post-Judgment Order

A. Background

Before trial, MLK served two Code of Civil Procedure section 998 offers to compromise on Janisse. Janisse rejected both offers by allowing them to lapse.

Following the jury verdict and entry of judgment, MLK filed a memorandum of costs and motion to recover its costs as a prevailing party under Code of

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[13] Janisse argues the combined errors deprived him of a fair trial. His argument lacks merit because we have rejected each of Janisse's individual claims of error. Thus, they "cannot logically be used to support a cumulative error claim [where] we have already found there was no error to cumulate." (*In re Reno* (2012) 55 Cal.4th 428, 483.)

Civil Procedure sections 998 and 1032.[14] Janisse opposed MLK's motion and moved to tax MLK's costs in their entirety.

After a hearing on the motions, the trial court denied MLK its costs as a prevailing party. First, the court found MLK had not met its burden of showing the FEHA claims were frivolous, as required under Government Code section 12965, subdivision (c)(6). Thus, as the trial court correctly noted, only costs properly allocated to non-FEHA claims were potentially recoverable by MLK. The court then concluded: "[MLK] would likely be able to show at least some portion of the claims for retaliation were entirely distinguishable from the FEHA claims. . . . [¶] But [MLK] has not attempted to allocate any costs to the defense of the non-overlapping non-FEHA claims. [MLK] has not met its burden to show the amount of costs that should be allocated to those claims, and thus the Court denies [MLK's] motion for costs in its entirety."

MLK moved for reconsideration under Code of Civil Procedure section 1008—this time submitting evidence of the amount of costs that it incurred it

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[14] MLK also moved to recover attorney fees under FEHA's cost-shifting provision, which permits a prevailing defendant to obtain fees for having defended against frivolous claims. (See Gov. Code, § 12965, subd. (c)(6) ["the court, in its discretion, may award to the prevailing party . . . reasonable attorney's fees and costs . . . except that, notwithstanding Section 998 of the Code of Civil Procedure, a prevailing defendant shall not be awarded fees and costs unless the court finds the action was frivolous, unreasonable, or groundless when brought, or the plaintiff continued to litigate after it clearly became so"].) MLK does not challenge on appeal the trial court's denial of those fees.

defending against the non-FEHA claims. The trial court (Hon. Charles Lee) denied the motion on the ground that MLK failed to demonstrate new facts, circumstances or law warranting reconsideration.

MLK timely appealed.[15]

B. Analysis

Unless the prevailing defendant demonstrates the Plaintiff's FEHA claims were frivolous, "only those costs properly allocated to non-FEHA claims may be recovered by the prevailing defendant." (*Roman, supra,* 237 Cal.App.4th at p. 1062.) The sole issue in this appeal is whether the trial court abused its discretion by denying MLK's motion for costs in its entirety based on MLK's failure to allocate its costs between Janisse's FEHA and non-FEHA

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[15] We reject Janisse's argument that MLK's appeal should be dismissed on the ground that the notice of appeal does not sufficiently identify the order appealed from. The notice of appeal checks the box for "[a]n order after judgment under Code of Civil Procedure, § 904.1(a)(2)." Although the notice omits the date of the post-judgment order, there was only one post-judgment order by which MLK was aggrieved (*i.e.*, the February 28, 2023 order denying MLK its costs as the prevailing party). Further, MLK's designation of the record on appeal states the appeal is from the February 28, 2023 order. It is thus "reasonably clear what [MLK] was trying to appeal from." (*See In re Joshua S.* (2007) 41 Cal.4th 261, 272 [A notice of appeal shall be "'liberally construed so as to protect the right of appeal if it is reasonably clear what [the] appellant was trying to appeal from, and where the respondent could not possibly have been misled or prejudiced"']; *see also* Cal. Rules of Court, rule 8.100(a)(2) ["The notice of appeal must be liberally construed"].) Moreover, although we disagree with MLK's contention on appeal, we are unpersuaded by Janisse's argument that MLK's appeal is frivolous.

claims. We conclude no abuse of discretion has been shown.

It is undisputed that MLK did not—either in support of its motion for costs, or in opposition to Janisse's motion to tax costs—attempt to allocate its costs between those incurred in defending against Janisse's claims for violations of FEHA and those incurred in defending against non-FEHA claims. It nevertheless argues that the trial court "denied MLK an opportunity" to allocate its costs. But it was MLK's burden to do so as the moving party. (*See cf. Christian Research Institute v. Alnor* (2008) 165 Cal.App.4th 1315, 1320 [under the anti-SLAPP statute, the prevailing defendant may recover fees and costs only for the motion to strike, not the entire litigation; as the moving party, the prevailing defendant bears the burden of establishing entitlement to an award of fees and costs, which may require producing records sufficient to provide a proper basis for determining how much time was spent on particular claims]; *see also Ladas v. California State Auto. Assn.* (1993) 19 Cal.App.4th 761, 774 [once items in a cost memorandum are properly objected to, they are put in issue and the burden of proof is on the party claiming them as costs].)

Moreover, the record demonstrates the trial court did not, as MLK contends, "deny[] MLK an opportunity to allocate its costs[.]" Nothing prevented MLK from filing evidence allocating its fees and costs with its moving papers. Further, MLK never requested to do so by seeking leave from the court to file supplemental briefing and/or to submit evidence on the allocation issue. Rather, at the hearing on the motion, Counsel for MLK urged the court to conduct its own

allocation of costs related to the FEHA and non-FEHA claims by going through the line items provided in the memorandum of costs. The court properly exercised its discretion when it declined to perform the allocation itself.[16]

MLK's reliance on *Roman, supra*, 237 Cal.App.4th 1040 and *Moreno v. Bassi* (2021) 65 Cal.App.5th 244 (*Moreno*) is misplaced. In *Roman*, the trial court awarded the prevailing defendants all of their costs without evaluating whether the FEHA claims were frivolous. (*Roman, supra*, 237 Cal.App.4th at p. 1050.) The Court of Appeal reversed the order and remanded the matter to the trial court to determine whether the FEHA claims were frivolous, and noted that unless the FEHA claims were frivolous "only those costs properly allocated to non-FEHA claims may be recovered by the prevailing defendant." (*Id.* at p. 1062.) In *Moreno*, an employee sued her employer and "lost all the FEHA claims, lost some non-FEHA claims, and prevailed on some non-FEHA claims." (*Moreno,*

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[16] This is especially true where, as here, it was not easily ascertainable from the memorandum of costs which fees were incurred in defending the non-FEHA claims. As the trial court explained: "Counsel [for MLK] stated, for example, that the court should, at the very least, award Defendant $29,000 in 'jury costs' because, according to counsel, those indisputably related to the non-FEHA claims. Counsel is apparently referring to line 3 on the Memorandum of Costs, where $29,030 is claimed for 'jury food and lodging.' The court has no idea of what that line item refers to. The jury was not sequestered and there were no costs associated with jury food and lodging. [¶] Even as to the actual jury fees of $2,074.95, the court cannot conclude that all jury fees were allocable to non-FEHA claims because there were FEHA claims at issue at the beginning of trial that were dismissed by Plaintiff only shortly before closing arguments."

supra, 65 Cal.App.5th at p. 249.) The trial court nonetheless awarded the plaintiff "all of her costs . . . without conducting an inquiry into which costs, if any, were incurred solely as a result of . . . the FEHA causes of action" on which she did not prevail. (*Id.* at p. 263.) Thus, the Court of Appeal remanded the matter to the trial court to make the determination and adjust the award of costs if necessary. (*Ibid.*) In so doing, the court noted: "It falls within the trial court's discretion to seek input from the parties, such as additional briefing in which the parties identify the costs they contend were caused solely by the inclusion of the FEHA causes of action in the lawsuit, before deciding which costs [plaintiff] is entitled to recover." (*Ibid.*)

Neither *Roman* nor *Moreno* support MLK's position that the trial court abused its discretion by denying MLK's motion for costs based on MLK's failure to allocate costs. That a trial court, after remand from the appellate court, *may* request additional briefing does not mean a trial court is *compelled* to do so when, as here, the prevailing defendant fails to meet its burden in its moving papers and does not request leave to file supplemental briefing.

We further conclude the trial court did not abuse its discretion by denying the motion for reconsideration. Code of Civil Procedure section 1008, subdivision (a) requires that a motion for reconsideration be based on new or different facts, circumstances, or law. "A party seeking reconsideration also must provide a satisfactory explanation for the failure to produce the evidence at an earlier time." (*New York Times Co. v. Superior Court* (2005) 135 Cal.App.4th 206, 212.) MLK's motion did not meet these requirements. In

denying the motion, the trial court correctly stated: "A motion for reconsideration is not an opportunity to reargue the case or present evidence that the defense had at the time this matter was originally decided [¶] . . . The motion for reconsideration has no new facts or different facts or circumstances or law as required by [Code of Civil Procedure] section 1008. . . . "

DISPOSITION

The judgment in favor of MLK is affirmed. The February 28, 2023 post-judgment order denying MLK its fees and costs is affirmed. The parties shall bear their own costs on appeal.

NOT TO BE PUBLISHED
IN THE OFFICIAL REPORTS

/s/ Tamzarian, J.

We concur:

/s/ Zukin, P.J.

/s/ Collins, J.

ORDER DENYING MOTION TO AUGMENT, COURT OF APPEAL OF THE STATE OF CALIFORNIA, SECOND APPELLATE DISTRICT, DIVISION FOUR (SEPTEMBER 3, 2025)

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA SECOND APPELLATE DISTRICT DIVISION FOUR

JULIUS JANISSE,

Plaintiff and Appellant,

v.

MARTIN LUTHER KING JR. – LOS ANGELES (MLK-LA) HEALTHCARE CORPORATION,

Defendant and Respondent.

No. B326593
(Los Angeles County Super. Ct. No. 19STCV27233)

JULIUS JANISSE,

Plaintiff and Respondent,

v.

MARTIN LUTHER KING JR. – LOS ANGELES (MLK-LA) HEALTHCARE CORPORATION,

Defendant and Appellant.

No. B328707

(Los Angeles County Super. Ct. No. 19STCV27233)

Before: TAMZARIAN, Acting Presiding Justice.

THE COURT:

The court has read and considered Julius Janisse's Motion to Augment and MLK's opposition. The motion is denied on the ground that it seeks to add hearing transcripts that are already part of the record.

/s/ Tamzarian
Acting Presiding Justice

MINUTE ORDER,
SUPERIOR COURT OF CALIFORNIA,
COUNTY OF LOS ANGELES, CIVIL DIVISION
(JANUARY 17, 2023)

SUPERIOR COURT OF CALIFORNIA,
COUNTY OF LOS ANGELES
Civil Division - Central District, Stanley Mosk Courthouse, Department 24

JULIUS JANISSE

v.

MARTIN LUTHER KING JR. – LOS ANGELES (MLK-LA) HEALTHCARE CORPORATION, ET AL.

No. 19STCV27233

Before: Hon. Kristin S. ESCALANTE, Judge.

NATURE OF PROCEEDINGS: Ruling on Submitted Matter

The Court, having taken the matter under submission on 01/13/2023 for Hearing on Motion for New Trial and/or Motion for Judgment Notwithstanding the Verdict;, now rules as follows: The Motion for New Trial and/or Motion for Judgment Notwithstanding the Verdict; reservation no.: 200520940783 filed by Julius Janisse on 12/05/2022 is Denied.

Plaintiff's Motion for a New Trial and Motion for Judgment Notwithstanding the Verdict is DENIED.

Plaintiff has not shown any ground for a new trial or a judgment in his favor.

Plaintiff's brief is filled with mischaracterizations of the record and blatantly false statements about what occurred at trial. Plaintiff takes a scattershot approach in presenting his argument and the court does not respond to every false statement. The court emphasizes, however, that the court did not exhibit any bias toward Plaintiff or his counsel, did not yell at Plaintiff's Counsel or behave in a rude manner toward her, and did not use the tone that Plaintiff's Counsel falsely accuses the court of taking in this motion.

The court also notes that Plaintiff's Counsel filed transcripts with the motion. Some of the transcripts appear to be final but others are clearly rough drafts. Further, the transcripts are not complete. Counsel has omitted transcripts from days on which key hearings were held on the issues that Plaintiff raises. For example, Plaintiff argues that she was not given sufficient time on voir dire, but Plaintiff's Counsel omitted transcripts for October 19, 2022, when the court granted Plaintiff's counsel's motion for more time on voir dire and during which a substantial portion of voir dire occurred. Plaintiff also argues that the court erred in ruling on the deposition designations, but Plaintiff's Counsel also omitted the transcript for the hearing on the morning of November 8, 2022, when the court heard argument on the joint deposition designations.

The court has used the transcripts filed by Plaintiff in preparing this order. Where Counsel has filed only rough transcripts, the court's citations are

to the rough transcripts. Thus the citations in this order may not correspond to the Reporter's Transcript.

Plaintiff's brief contains subsections with subheadings. Confusingly, each subsection contains numerous arguments that may or may not have anything to do with the subheading. Many are throwaway arguments that consist of merely a line or two. The court has attempted to address the arguments made in each subsection in the order in which they were presented (regardless whether they relate to the subheading).

A. Court's Ruling on Mr. Janisse's Cancer Diagnosis Was Proper (Section B.i in Plaintiff's Memorandum)

In Motion in Limine No. 8, Defendant sought to exclude evidence that Plaintiff had been diagnosed with and treated for prostate cancer on relevance and undue prejudice grounds. In opposition, Plaintiff argued that the cancer diagnosis was relevant to the emotional distress that Plaintiff suffered from the termination. In particular, Plaintiff argued that he had lost medical benefits as a result of the termination and the loss of medical benefits heightened his emotional distress because he had cancer. Plaintiff's Counsel also argued that the cancer diagnosis was relevant because it explains why he declined to take antidepressant medication. Plaintiff's Counsel did make the argument that Counsel makes here – that the cancer diagnosis explained why he did not seek a new job and why he did not mitigate his damages. (See Opp. to MIL No. 8, filed on 2/7/2022.)

At the hearing on the motion in limine, the court inquired whether Plaintiff had in fact been left

without medical insurance, given that he was 65 years old at the time of his termination and would have qualified for MediCare. At the hearing, Plaintiff did not contend or claim that he actually had been left with no medical insurance and appeared to drop that argument. As to the anti-depressant issue, Defendant's Counsel represented that Defendant did not intend to elicit testimony that Defendant had declined anti-depressants and/or other psychotropic medication.

Based on those arguments, the court granted the motion in limine to exclude the cancer diagnosis under Evidence Code sections 350 and 352. Plaintiff offered no other theory of relevance. The court repeatedly informed counsel, in the court's written rulings and orally throughout the trial, that any party was welcome to seek to admit or exclude any evidence addressed in a ruling on a motion in limine outside the presence of the jury. In particular, the parties were expressly invited to seek reconsideration of a ruling on a motion in limine if the party thought the other had opened the door at trial.

During trial, Plaintiff never asked the court to reconsider the exclusion of the cancer diagnosis on the ground that it explained why had not sought re-employment (or on any other ground for that matter). Instead, Plaintiff introduced evidence that was inconsistent with the theory that Plaintiff articulates here. Specifically, Plaintiff presented expert testimony that his economic damages should encompass the time from which he was terminated through his 75th or 76th birthday, because he intended to work until then. The alleged lost wages and benefits for that time frame totaled $1,024,125.00 (in addition to the

$18 million he was seeking for emotional distress damages.) (*See*, *e.g.*, RT, Nov. 10, 2022, p. 61.)

In response, Defendant elicited testimony that Plaintiff had not adequately mitigated his damages by seeking new employment. Again, Plaintiff did not ask to introduce evidence regarding his cancer diagnose to explain why he had not engaged in more vigorous efforts to seek employment after he was terminated. Plaintiff's argument now, that he could not work because he had cancer, is inconsistent with Plaintiff's position at trial.

The jury did not reach the issue of damages, instead finding in favor of Defendant on the first and second elements of the claims. Plaintiff has not shown any error from the exclusion of evidence of his cancer diagnosis, let alone a prejudicial error that would require a new trial.

B. The Argument That the Court Prohibited Plaintiff From Using Certain Words Fails (Section B.ii.)

Plaintiff's memorandum contains a heading entitled "Unwarranted Prohibition on the Use of Words at the Encouragement of Defense Counsel." Under this heading, Plaintiff makes several arguments. First, Plaintiff complains that the court placed improper limits on the scope of voir dire and specifically limited the use of the word "power." Plaintiff's argument is legally and factually inaccurate.

Prior to the start of jury selection, Defendant filed a trial brief on the proper scope of voir dire. The brief was accompanied by a declaration that had an excerpt of voir dire that Plaintiff's Counsel had conducted in a prior trial. In that prior voir dire,

Plaintiff's Counsel had told the jury personal anecdotes, such as the following:

1. "Ms. White: So I grew up Roman Catholic, right? Religious family. And years ago when I was a lot prettier and skinny, I was in a shower washing my hair, and I looked up. And my boyfriend at the time had his phone, and he took a picture of me and I was in the shower. And I got out and said, "What are you doing? Why did you do that?" (Roberts Decl. filed 10/14/2022.)

2. "Ms. White: . . . Okay, I want to talk about something that kind of makes me feel uncomfortable which is obesity. I struggle with body image and my weight. I was pregnant at one time, lost my baby, and I never lost the weight and I'm very self-conscious about my body."

Plaintiff's Counsel had also made improper statements and instructions regarding the jury's role, such as the following:

3. "Ms. White: The question is like I ask myself, well, what's happening in our history and time to make women say you know what? I've had enough. I'm going to come forward, and I'm going to go against a man that's as powerful as Bill Cosby or I'm going to go against a man . . . like Harvey Weinstein."

4. "Ms. White: So I want to talk about power. . . . If you end up on this jury, you'll have immense power, all right? You'll have more power than anyone in the state, in fact anyone in the world in deciding this case.

> . . . You'll even have more power than the judge in this case."

In response to this filing, Ms. White informed the court that she thought that the voir dire in that case had been perfectly appropriate, and in fact excellent, and that the judge in that case had complimented her. It was clear from Ms. White's comments that she intended make the same sort of statements during voir dire in this case. The court therefore advised Ms. White that in the court's view the personal anecdotes and instructions to the jury about having more power the judge were inappropriate and should not be used in this case.

The court's advisement complied with the law. The purpose of voir dire is to ask questions, not to share personal anecdotes or to instruct the jurors on their role. With respect to the instruction that jurors had more power than the judge, the court viewed that as invitation to disregard the court's instructions. The court acted within its discretion to prohibit Counsel from giving such an instruction during voir dire.

Plaintiff also argues that she was prohibited from using the term "baby." This mischaracterizes the record. During Plaintiff's counsel's examination of Ms. Beatrice Fuller, Plaintiff's Counsel about an incident that occurred involving Plaintiff on October 11, 2018. Plaintiff asked if the incident occurred during a medical procedure and Ms. Fuller responded yes. She then asked if it was a vaginal cerclage procedure and Ms. Fuller testified that she did not remember the procedure. Counsel then said, "And there was a rather obese women who was about to lose her baby." Defense counsel objected as lacking founda-

tion, mischaracterizes the evidence, and patently false. The court stated that Plaintiff's counsel could ask the witness if that was the case. Counsel then asked, "Do you recall that there was a very large woman who was about to lose her baby?" and Ms. Fuller testified that she did not recall that. (Nov. 2, 2022, p. 28-29.)

A few minutes later, counsel asked whether Plaintiff had to break scrub during the procedure on October 11, 2018 to retrieve an instrument, and Ms. Fuller testified "Yes." Counsel then said: "Because we do not want to lose this baby?" Defense counsel objected, and the court sustained the objection. Defense counsel then requested a sidebar, which the court granted. (Nov. 2, 2022, p. 31.)

A sidebar was held in chambers. Defense counsel stated that there was no factual basis for the assertion that the procedure involved a pregnant woman who was about to lose a baby. The court asked Plaintiff's counsel for an offer of proof for the factual basis for the question. Instead of responding to the court's question, Plaintiff's counsel complained that defense counsel had interrupted her examination and that the court had restricted Plaintiff from using the word power in voir dire (matters that were obviously inappropriate to raise at a sidebar for a different issue with the jury waiting) and that therefore the court was being unfair to counsel. She refused to answer the question regarding her offer of proof. The court then told Plaintiff's counsel that there needs to be a factual basis for facts asserted in questions on cross-examination, and unless Plaintiff's counsel informed the court of what evidence she was going to rely on to proof the facts on which the question is

based, she would not be permitted to refer to a lost baby or pregnancy in her questioning.

Plaintiff did not provide any offer of proof. She did not say, for example, that her client would testify that the procedure involved a pregnant woman who was about to lose her baby. (That by itself would have been a sufficient offer of proof, but that offer was not made.) The court told Plaintiff's counsel that she could answer the question after lunch if she needed time to respond. The court's ruling in no way prohibited her from asking any questions during cross-examination for which she had a factual basis. (See Nov. 2, 2022, p. 31-35.) Evidence was later elicited that the procedure had involved a pregnancy, and counsel was not prohibited from including such facts in her questions.

Plaintiff next complains about the court's rulings on objections during closing argument. This argument is made several times in Plaintiff's brief and is addressed in section H below.

Plaintiff next complains about the court's treatment of deposition designations. This argument is also repeated throughout the brief and is addressed in section E below.

C. Plaintiff's Claim That the Judge Was Rude, Biased and Condescending Toward Plaintiff's Counsel Is False (Section B.iii.)

The facts that Plaintiff asserts in this section are false. The court did not yell, treat Ms. White in a condescending manner, or favor the defense in any manner.

Plaintiff first suggests that the court somehow treated Plaintiff's counsel improperly in front of the jury. This is not true. In support of this argument, Plaintiff cites hearings that were held outside of the presence of the jury. She cites, for example, a jury instruction conference that occurred on August 30, 2022, close to six weeks before jury selection had begun. The jury instruction conference was held on what was supposed to be the first day of trial. The court expressed frustration with the fact that the jury instructions submitted by both sides were in poor shape. The court nonetheless heard extensive argument from both sides and held extended hearings on the proposed jury instructions that went on for days.

Plaintiff also cites an exchange outside the presence of the jury that occurred on October 20, 2022. During the court's voir dire, Plaintiff's counsel asked for a restroom break and the court granted the request for a short break. (October 20, 2022, pg. 35:12.) Before the jurors returned to the courtroom, counsel stated that she had an issue to raise. The court asked what the issue was. Counsel began to say twice that she appreciated the court's voir dire, but counsel was not getting to the point. Because the jury was waiting and because the break had been requested for a restroom break, the court tried to encourage counsel to get to the point. The court asked counsel if she had an objection to something that had occurred in the court's voir dire, and she said no. The court then asked counsel to state the issue she wanted to raise succinctly because the jury was waiting. Plaintiff's counsel then again began to say that she appreciated the court's voir dire, and in an attempt to get counsel to get to the point, the court

said: "You don't need to tell me that you appreciate [the court's voir dire.] What's the issue?" This exchange was not in front of the jury and the court did not treat counsel disrespectfully. The court's point was that she did not have to sugarcoat her objection by first flattering the court, but should just succinctly raise her point. (The voir dire that occurred on October 20, 2022 was the second round of voir dire that occurred on a second, small panel when a small number of additional jurors were needed to complete the selection of alternates.)

Plaintiff also cites a hearing regarding deposition designations that took place on November 10, 2022. This hearing took place after Plaintiff's counsel had repeatedly violated the court's orders regarding deposition designations and had violated the court's order about what deposition designations could be played by giving her technician a different set of clips than the court had ruled upon. The court properly expressed frustration outside of the presence of the jury at counsel's repeated violation of the court's orders regarding the deposition clips, but ultimately allowed the clips to be played. (See Nov. 14, p. 9-17 and 61-69.)

Plaintiff also argues that the court "continuously interrupted Ms. White," suggesting that she was not permitted to adequately present argument. This is not true. The court held days of hearings on jury instructions, verdict forms, written motions in limine, oral motions in limine, and various other topics. The court was also generous with time during trial. All parties were allowed more than ample time to present argument on all issues. The court has the inherent authority to control proceedings and to require succinct

focused argument on the issues presented. The court also was within discretion to cut off further argument and complaints after the court had made its rulings (which further argument Plaintiff's counsel often demanded, even when the court ruled in Plaintiff's favor (See, Nov. 1, 2022, p.12-15)).

Plaintiff argues that the court's purported "interruptions" biased the jury against Plaintiff's counsel. The discussions that Plaintiff cites were almost entirely outside the presence of the jury. As to events in front of the jury, Plaintiff cites instances in which the court properly sustained objections. (See citations in Plaintiff's Memorandum on p. 13, lines 22-24.) The rulings on objections were stated in a calm, neutral manner.

Counsel also argues that the court improperly set time limits on the testimony. The court generously allowed each side up to 20 hours for testimony, which included time on direct, cross or re-direct (including deposition designations). Time spent in argument or at sidebar was not counted against this time. The court informed counsel that if good use of the time had been made, additional time would be allowed.

Twenty hours per side was more than enough time for the presentation of evidence in this case. The court concluded that Plaintiff's counsel had not made good use of her time (especially on the examination of Ms. Burrows) but the court nonetheless granted Plaintiff an additional hour when Plaintiff had used up his time. The court was within its discretion to set reasonable time limits.

Plaintiff also complains that the court issued a preliminary ruling that Plaintiff could either call Plaintiff's wife or daughter, but not both, on the theory that testimony by both would be cumulative. The court later reconsidered that ruling after the court set time limits. The court did not restrict Plaintiff from calling both his wife and daughter.

D. Counsel's Argument that the Court Abused Its Discretion Regarding Evidence of Plaintiff's Prior Terminations Is Without Merit (Subsection B.a, p. 14.)

At trial, Plaintiff sought damages of $19 million, which included approximately $1 million in economic damages and $18 million in non-economic damages. Plaintiff's theory is that he was traumatized by being terminated from his job. Plaintiff testified emotionally that he had "been in surgery for 23 years" and he had "never been suspended in my life for working. So this is a shock. And it hurt." (Nov. 7, p. 108:14-16.) He testified that having to tell his wife and children that he had been suspended then terminated caused him to suffer extreme trauma.

Defendant contended that an alternate cause of Plaintiff's emotional distress was the fact that he had been terminated from previous jobs and that Plaintiff was exaggerating the effects of the termination from this job. In support of that theory, Defendant sought to introduce testimony from Plaintiff's psychiatrist, who testified at hearing held under Evidence Code section 402 that Defendant's current emotional distress was caused in part by the fact that he had been terminated from a prior job. Dr. Willet relied on statements made directly by Defendant for that conclusion.

Defendant had the right to explore alternate sources of causation for Plaintiff's alleged extreme trauma. As noted, Plaintiff's own psychiatrist testified that the emotional distress Plaintiff was experiencing was caused in part by his prior termination. The court therefore allowed the testimony that he had previously been terminated, concluding that the relevance to the damages claim was not substantially outweighed by the prejudice. This conclusion was bolstered when Plaintiff testified in a highly emotional manner that he had never been suspended in his 23 years of working.

Defendant also sought to introduce evidence about the REASONS for Plaintiff's termination from Kaiser. Specifically, Defendant sought to introduce evidence that he was terminated from his job at Kaiser for threatening a physician, which was similar to the reason that he was terminated in this case (*i.e.*, threatening to kill a co-worker). Defendant had told his psychiatrist that he had also been terminated from his previous job at Kaiser for threatening a physician. Defendant argued that the fact that he was terminated from his prior to two jobs, and the reasons for the termination, were relevant to BOTH Plaintiff's emotional distress claims and to Defendant's after-acquired evidence defense.

The court therefore appropriately exercised its discretion in allowing testimony that Plaintiff had previously been terminated from jobs at Kaiser and Pacific Hospital but excluding testimony as to the reasons for the terminations in Phase I. The court bifurcated the issue of the after acquired evidence defense. If the jury found Defendant liable and awarded damages in Phase I, the action would proceed to a

Phase II, during which the after acquired evidence defense would be tried.

Counsel's arguments regarding the after-acquired evidence defense are irrelevant and misplaced. Again, that issue was bifurcated and the jury never heard evidence and was never instructed on that defense. Again, to repeat: the fact that Plaintiff had been terminated from prior jobs (but not any reasons for the terminations) was allowed in to counter the claim for $18 million in emotional distress damages. The argument on pages 14:17 to 15:15 concern only the after-acquired evidence defense and is not relevant to anything that occurred at trial.

As to whether it would have been proper to allow evidence in Phase II regarding the after-acquired evidence defense, even though Defendant had not disclosed the basis for its defense during discovery, the court held multiple days of hearings on this issue before the jury was empaneled. After reviewing all the evidence, the court found that Defendant first learned of the basis for the after-acquired evidence defense after the close of fact discovery, during the deposition of Plaintiff's designated expert psychiatrist, and thus the exclusion of evidence as a discovery sanction would be inappropriate. To mitigate any prejudice to the Plaintiff, the court allowed Plaintiff to take discovery on issues related to the defense prior to the start of jury selection. This discovery included allowing Plaintiff to serve interrogatories and to take depositions of Defendant's PMK and third-party witnesses. Jury selection was pushed back by approximately six weeks, in part to accommodate this discovery.

Plaintiff's counsel falsely states in the motion for a new trial that "Defense counsel introduced new

facts at trial, which were not previously disclosed. This new fact alleged that Plaintiff had allegedly threatened a physician in his previous employment at Kaiser ten years ago and introduced for the first time in the middle of the trial." This is blatantly false. No such evidence was presented to the jury. Again, the jury heard that Plaintiff was terminated from Kaiser, but heard no evidence regarding the reason for the termination.

Plaintiff's counsel also argues that Defendant introduced evidence that Plaintiff had allegedly threatened Juliana Rodrigues, and that the introduction of that evidence was improper because it had never been disclosed in discovery. Plaintiff's counsel never sought to exclude this evidence on that basis. The factual assertions in Plaintiff's counsel's memorandum at p. 15, lines 16-25 are false.

E. Plaintiff's Counsel Repeatedly Violated the Court's Orders on Regarding Deposition Designations And Engaged in Misconduct During Trial. The Court's Rulings Were Proper. (Subsection B.b and B.c, p. 15 and 16)

The issue of deposition designations is discussed above, in section C. In the pretrial filings, Plaintiff's counsel submitted deposition designations consisting of hundreds of pages of testimony. Counsel informed the court that Plaintiff did not actually intend to offer all that deposition testimony. The court repeatedly ordered the parties to provide the deposition designations that they actually intended to use for witnesses to be called by deposition only so that (1) counter-designations could be made; and (2) the court could rule on objections to the designations in an orderly

manner. Plaintiff's counsel repeatedly violated the court's order regarding the designations.

The parties finally complied with the court's order regarding designations on November 8, 2022, when the court was provided with a joint document from the parties from the deposition of Aiwen Young and Akorede Oshunluyi that had designations requested by Plaintiff in one color, by Defendant in another color, and jointly requested designations in green. Objections were indicated in the margin. In the morning on November 8, the court held a hearing on these deposition designations and made rulings on what could be played to the jury. Plaintiff's counsel did not include the transcript of this hearing with this motion.

On the next day, Plaintiff's technician began to play the video clips, but the clips were not the ones that had been approved by the court. The jury was excused early for the day. Counsel provided no coherent explanation for why the the clips that were being played were not the clips that had been ruled on by the court. Plaintiff's co-counsel, Mr. Terence Jones, stated that he did not see any reason why Plaintiff could not play the clips that had been identified by the parties and on which the court had ruled. (See Nov. 9, 155:8-12; *see also* 154:13-16.)

On the next day, the court held a further hearing on deposition designations. Plaintiff's counsel, Ms. White made false statements to the court about what had occurred at the November 8, 2022, hearing. The court was provided a transcript that had new designations that included pages of highly inflammatory testimony on topics that the court had previously granted motions in limine, including hearsay and

unfounded gossip about affairs between hospital personnel, a purported "nervous breakdown" by a staff member, a purported 5150 hold, and other similarly salacious topics that had no relevance to the case. When the court expressed incredulity that such designations were being provided at the last minute, on the day Plaintiff expected to rest, while the jury waited outside, Plaintiff's counsel stated that those were not the designations that they were seeking to play. Plaintiff's technician then provided a list of the clips that had been queued up to be played and were ready to be played for which objections had not yet been ruled on and that had not previously been approved by the court.

The court informed counsel that Plaintiff could play the clips that had previously been approved in the morning and that the court would review the new clips over lunch and consider objections directly after lunch. Alternatively, Plaintiff could rest and seek to reopen to play the clips. The court was not willing to break early and waste juror time because the trial had already gone longer than the estimated time and was at risk of losing jurors. Counsel defied the court's order in front of the jury.

Nonetheless, the court allowed Plaintiff to reopen so that new clips could be played. The court held a further hearing on November 14, 2022 in which the court ruled on Defendant's objections to Plaintiff's newly identified clips for Aiwen Young's deposition. (See Nov. 14, p. 9-17.) Later in the day, the court held a further hearing on the newly identified clips for Akorede Oshunluyi and ruled on the objections to those. (See Nov. 14, p. 61-69.) Except for those for which objections were sustained, Plaintiff was allowed

to play all the deposition designations identified on November 9, 2022.

Even then, when Plaintiff's technician began to play the deposition of Ms. Young, portions that had not been approved were improperly played to the jury. (See Nov. 14, p. 76:24-77:11.)

There was no error by the court with respect to deposition designations. Plaintiff's counsel repeatedly violated the court's orders regarding designations, but Plaintiff was permitted to present the portions of the depositions that had been requested. Plaintiff's argument that the court "disallowed" Plaintiff's clips is false.

F. Plaintiff's Arguments Regarding PowerPoints Are Without Merit (Subsection B.iv.)

During the testimony of Ms. Burrows, Plaintiff's counsel sought to publish a PowerPoint that had been used during Plaintiff's counsel's opening statement. The court had allowed its use during opening statement. The PowerPoint was not on the exhibit list. When Plaintiff's counsel sought to show the slide to the jury during Ms. Burrow's testimony, Defense counsel objected on the grounds that it lacked foundation. The court ruled that Plaintiff could publish the slide to the jury as a demonstrative after foundation had been laid for the information contained therein. Plaintiff did not attempt to lay a foundation. There was no error in the court's ruling.

Plaintiff also complains about the court's sustaining of an objection to a PowerPoint slide during Plaintiff's counsel's closing arguments. During closing argument, Plaintiff's counsel displayed a PowerPoint slide to the jury that contained a photograph of the

door of Department 24, with the judge's name clearly visible, with red "price tag" attached saying "For Sale." The clear message that the slide was attempting to convey was that justice in Department 24 is "for sale." The slide was highly inappropriate. Defense counsel objected to the slide, and the court sustained the objection. The slide remained on the screen despite the court's ruling on the objection. The court then calmly instructed Plaintiff's counsel to "take down the image, please." Counsel's representation that the court yelled at Ms. White in front of the jury is blatantly false. It was within the judge's discretion to require counsel to take down a slide that suggested that the court's rulings were for sale.

Further, contrary to Plaintiff's argument, there were no improper interruptions to Ms. White's closing argument. The court properly ruled on the objections that both sides raised.

G. Changes to the Verdict Form Were Necessary After Plaintiff Dismissed Claims and the Court Directed the Verdict on Punitive Damages (Subsection B.v.)

The court had held several hours' (perhaps days') worth of hearings on the special verdict form before jury selection had begun. After the close of evidence, outside the presence of the jury, Plaintiff informed the court that Plaintiff would be dismissing certain claims. Further, the court directed the verdict on certain issues. Therefore, last minute changes to the verdict form and instructions were required. The court spent a few hours with counsel outside the presence of the jury before closing arguments were held to make sure the instructions and verdict form were finalized. An extended hearing was held before

the lunch break. Changes were made over lunch, and the completed verdict form was presented to the court after lunch.

Upon reviewing the revised verdict form, the court noticed that it contained a mistake. After considering the proposals of counsel, the court fixed the mistake, and copies of the revised form were made in the courtroom by court staff before the jury was brought in to hear closing arguments.

There was nothing unusual or improper about the procedure used for the revision of the verdict form. The parties were permitted adequate time to address the court.

In any event, the jury did not reach any of the questions as to which the last-minute changes were made, so any argument regarding errors in that regard are moot. In any event, the verdict form was proper.

H. The Court Properly Sustained Objections During Closing Argument and Did not Improperly Admonish Plaintiff's Counsel (Subsection B.vi.)

"An attorney's appeal in closing argument to the jurors' self-interest is improper and thus is misconduct because such arguments tend to undermine the jury's impartiality. (*People v. Pitts* (1990) 223 Cal.App.3d 606, 696, 273 Cal.Rptr. 757 ["it is improper to appeal to the self-interest of jurors or to urge them to view the case from a personal point of view"].)" (*Cassim v. Allstate Ins. Co.* (2004) 33 Cal. 4th 780, 796, as modified (Oct. 13, 2004).)

The court appropriately sustained Defendant's objections to Plaintiff's counsel's argument that violated

this principle, and appropriately granted Defendant's request for sidebar after the Plaintiff's counsel continued to make such argument after the court sustained three objections in a row on that basis.

Specifically, the court sustained defense objections to the following, but Plaintiff's counsel continued with argument in the same vein directly after the court sustained the objection:

1. "As I told you before this is an important case. It's important for a lot of reasons. It's because it involves every single one of us because we don't know if we're ever going to be in a hospital, we don't know if someone that we love will ever be in the hospital. [¶] One of the most vulnerable situations that you could be in when you go under anesthesia and you go for a medical procedure and you hope and pray that the people that you entrust your life and your love with is going to take care of them." [Objection sustained.]
2. "That person is going to look out for them because you are helpless in that instance. You have to be able to trust people that society tells us we're supposed to trust which are hospitals. That is the last place that we expect to go to. And we possibly could end up coming out worse. [Objection sustained.]
3. "Now you heard this is a community hospital. And it is about the community and you don't have to live in that community to be a part of it because this is Los Angeles and we travel the freeways all the time. We don't

> know if we're ever going to be on the 105 East and the 110 and that ambulance has to pick us up" [suggesting that the jurors themselves might end up at this hospital]. [Objection sustained, sidebar granted.]

At sidebar, the court instructed counsel outside the presence of the jury to refrain from appealing to the jurors' own self-interest. The court's demeanor during the sidebar was calm. Given the way the court's computer screens are configured, it would have been difficult for jurors to see the judge at sidebar, but even if they did see the judge, the court's demeanor was calm and collected.

Counsel defiantly stated that she hadn't done anything wrong and implied that she did not intend to follow the court's order. The court declined Defendant's counsel's request for a correcting instruction or jury admonition, but the court informed Plaintiff's counsel that the court would admonish counsel in front of the jury if continued along this line. The court did not "berate" Plaintiff's counsel.

After the sidebar was concluded, counsel re-started her argument by stating, in a disrespectful tone that suggested distain for the court and the ruling, "As I was saying, as I was interrupted again. . . . " The court then interrupted, saying: "Counsel, the court has made an order. It is a violation of the court's order to comment on the court's order when you return to your argument. I'm going to admonish you. You are not comment on the court's order[] whether you agree with them or not. You may continue." The admonition was delivered in a careful, neutral tone and it was within the court's discretion to correct

counsel's blatant disrespect for the court and its ruling.

The court's ruling on the objections, instruction at sidebar, and subsequent admonition were appropriate. The court was within its discretion to put a stop to improper appeals to jury's own self-interest at the outset of such an argument, before the argument reached a point where a corrective admonition would be required or a mistrial requested.

Counsel also argues that the court interrupted her 17 times during the trial, which prejudiced Plaintiff before the jury. With the exception of the incident addressed directly above (in which counsel expressed distain for the court's ruling after resuming argument after sidebar), all of the cited exchanges occurred outside the presence of the jury, and thus there is no way that any of them could have prejudiced Plaintiff's counsel before the jury. (See Plaintiff's Memorandum at page. 18, lines 9-12.) To the extent the court ever interrupted counsel during hearings outside the presence of the jury, the court acted within its discretion to maintain control over proceedings.

Plaintiff's counsel all states that the court "gave [defense counsel] Roberts non-verbal cues." This is blatantly false. The court did no such thing. Further, the court granted the requests for sidebars by both sides when such requests were warranted. The time spent at sidebar was not deducted from the twenty-hour time limits for testimony imposed on each side.

Plaintiff's counsel also raises a complaint regarding Defendant's counsel that was never raised to the court during trial. Ms. White alleges that she observed Mr. Roberts talking to a judge from a different depart-

ment in the hallway during breaks in the trial. (Counsel states that she saw Mr. Roberts speaking to the judge on the 4th floor; it should be noted that Department 24 is on the third floor.) As this issue was never raised with the court during trial, this cannot be a basis for a new trial motion. In any event, even if what Ms. White says is true, there is no reason to believe that any juror knew that the person that Mr. Roberts had spoken to was a judge or even that any juror saw Mr. Roberts speaking to the other judge.

Plaintiff's counsel also stated that she was denied permission to attend a hearing in another department. Prior to the start of jury selection, the court repeatedly asked counsel if there were any scheduling issues that the court should be aware of. The court continued to ask that question during trial. On October 31, 2022, after the jury had already been excused for the evening and had already been ordered back for 10:00 a.m., Ms. White informed the court for the first time that she would not be available at 10:00 the next day because she had a hearing in Department 54. Ms. White did not provide any information regarding the hearing, such as case name, case number, or time set for the hearing. It is the practice of judges in the courthouse to grant priority to cases when counsel is engaged in trial, and motions are generally set for 8:30 a.m. or 9:00 a.m. Ms. White provided no information to the court that would suggest that the judge in Department 54 would deny such a request. The court informed Ms. White that the trial would be re-starting at 10:00 a.m. and that if she could not be present, her co-counsel Mr. Terrence Jones (who had been present for the entire trial) could proceed in her place.

Ms. White was in Department 24 at the time for which she was ordered. There is no basis for a new trial on that ground.

Plaintiff's counsel makes various other arguments under this heading that are wholly without merit. The court does not address each argument.

I. Plaintiff's Counsel Was Provided Ample Time For Voir Dire and The Other Arguments Regarding Jury Selection Are Also Without Merit (Subsection C.i.)

Plaintiff counsel suggests that she was limited to 10 minutes for voir dire, which is blatantly false. The court allowed more than adequate time for voir dire. At the pre-trial conference, the court informed the parties that the court conducts extensive voir dire and that the court generally finds that in these types of cases 40 minutes of attorney voir dire is sufficient. The court informed counsel that the court was not placing strict time limits on voir dire, and that if counsel had made good use of their time and it appeared that more time was needed, the court would grant requests for further time. On October 19, after Plaintiff's counsel's voir dire had commenced, the court granted in part Plaintiff's counsel's request for more time. Each side was allowed up to an hour, with more time to be allowed upon request if counsel had made good use of their time and it appeared that the request was justified. (See Minute Order dated October 19, 2022.) The time allowed was more than adequate.

Counsel's presentation of the record is highly misleading. Counsel has omitted the transcript from October 19, 2022, which contains (1) the second day

of Plaintiff's counsel's voir dire, (2) the hearing on Plaintiff's motion for more time and the Court's granting of that motion in part, and (3) the selection of the main panel. Again, each side was allotted up to an hour for voir dire after the court's thorough questioning, which was more than adequate time.

Plaintiff's counsel was also allowed about 20 minutes for the voir dire of a small new panel on October 20. At this point in the proceeding, the 12 jurors had already been empaneled and sworn and new jurors were needed to complete the selection of alternates. Plaintiff cites this portion of the transcript in a misleading way to suggest that this was the voir dire of the main panel.

The voir dire that occurred on October 20 involved only a small number of jurors. The main panel had already been sworn in and three alternates were being selected. Two jurors remained from the original panel, and each side had already used one of their three preemptories for the selection of alternates. Assuming that each side would be using all of their preemptories, the maximum panel size needed to ensure alternates could be selected was thus 5 prospective jurors [three alternate jurors to be selected, plus four remaining preemptories, minus two remaining jurors from the previous day's voir dire]. More than five prospective jurors were on the panel to account for cause challenges. Given the small number of jurors to be questioned (and the thorough voir dire by the court) the court suggested that 15 minutes by each counsel would be sufficient (with more time to be granted if needed). Any suggestion that Plaintiff's counsel was not given sufficient time

to conduct voir dire on this final round is without merit.

Plaintiff's counsel argues that a juror should have been excused after opening statements. During opening statements, Defendant's counsel stated the evidence would show that Defendant had no choice but to fire Plaintiff because he had threatened to kill a co-worker. Shortly thereafter, a juror sent the court a note that she was a person of common sense, had already reached conclusions about the case and therefore could not keep an open mind. The juror did not say what way she was leaning. The court questioned the juror outside the presence of other jurors and reminded the juror that what counsel said was not evidence. Rather, her job was to evaluate the evidence based on the testimony and documents in the case. The court got the strong sense that the juror was confused about the proceedings and what it meant to keep an open mind and could still be fair. The court therefore declined to excuse the juror at that time but remained open to further argument on this point. Plaintiff never renewed the request to that juror excused.

The court's ruling was appropriate. But even if the court's ruling with respect to that juror was erroneous, the error was not prejudicial since the jury found in Defendant's favor 10-2 on the first question on the first cause of action (Question 1) and the second question (Question 7) on the second cause of action. Even if the juror had been replaced with a juror who voted in Plaintiff's favor on those questions, the verdict would still have been supported by a vote of 9-3.

J. The Jury's Verdict Was Consistent with the Evidence

Plaintiff argues that the jury's verdict was not supported by substantial evidence. This argument fails. There was sufficient evidence to support the finding that Plaintiff did not have a good faith belief in the complaints he had made and that the complaints he made were not bona fide complaints. The jury was properly instructed on these elements, with instructions proposed by Plaintiff's counsel.

Plaintiff also complains that the verdict was reached before the exhibits had been provided to the jury in the jury room. After the matter was submitted to the jury and the jury began to deliberate, the court gave counsel a chance to review the exhibit binders before they were sent back to the jury room. Before that review was completed, the jury announced that it had reached a verdict. There was no requirement that the court order that the jury engage in further deliberations. And Plaintiff made no request for such an order.

K. The Court Properly Allowed Evidence That Plaintiff Had Been Terminated from Prior Jobs

In subsection F, Plaintiff's counsel reiterates the argument that the court improperly allowed evidence that Plaintiff had been terminated from his prior job to be admitted into evidence. That ruling is discussed in section D above.

Plaintiff's counsel argues that Defendant should have been prohibited from asking Plaintiff if he was fired from his prior job because a prior judge had granted Plaintiff's motion to quash a subpoena issued

to Kaiser. Contrary to Plaintiff's counsel's argument, the court did not allow the introduction of any prior employment records or any prior lawsuits. Plaintiff's argument to the contrary is false. Rather, the court merely allowed Defendant to ask Plaintiff if he had been terminated from his two previous jobs. The court's prior ruling on the motion to quash cannot be construed as a ruling on a motion in limine that permanently and conclusively prohibited Defendant from asking any question on the topic of Plaintiff's former employment at trial.

As noted earlier, the fact that Plaintiff had been fired from prior jobs was relevant to his emotional distress claim. Even Plaintiff's own psychiatrist testified that it was his opinion that Plaintiff's current emotional distress was caused in part by Plaintiff's termination from a prior job.

L. Plaintiff's Other Arguments Fail

Plaintiff makes myriad other arguments in a scattershot fashion throughout the brief. It is important to note that Plaintiff's statements regarding the court's demeanor, tone of voice and other intangible factors are blatantly false. Also, Plaintiff's counsel repeatedly argues that events happened in front of the jury when they were, in fact, outside the presence of the jury, at sidebar or in the courtroom when the jury was not present.

Plaintiff states, in passing, that the court refused to give CACI 2511, which Plaintiff's counsel refers to as the "cat's paw" instruction. That is not true. The court ruled that the instruction should be given but that there would be some revisions required. (*See*, *e.g.*, August 30, 2022 at 106, line 8-12.) The court had

previously noted that further discussion about how the blanks should be filled in would have to be had at the close of evidence and that the court would make a final decision on the instruction then. (August 30, p. 107-108.) Plaintiff's counsel was charged with preparing a set of final instructions. Counsel did not renew the request for CACI 2511, did not include it in the final jury instruction packet that Plaintiff was required to prepare, did not propose revisions based on the evidence presented, and essentially dropped the request for the instruction. The court never denied a request to give that instruction. The portions of the transcript that Plaintiff cites in support of the argument that the court somehow denied the request for that instruction have to do with a court's ruling on the admission of a particular document and have nothing to do with the instruction. (See Plaintiff's Memorandum, p. 8:9-15.) In any event, the jury did not reach the questions to which this instruction would pertain; instead, it found in favor of Defendant on initial questions that had nothing to do with this instruction.

Plaintiff also falsely states that the court prohibited the introduction of Adrian Casares' history of being a gang member. This is false. After extensive argument on this issue, the court DENIED

Defendant's motion in limine on this issue. The court did sustain hearsay objections to certain evidence regarding Mr. Casares' purported gang affiliation, but that was only with respect to evidence that had no bearing on any relevant party's state of mind and was offered solely for the truth and thus was properly excluded as hearsay.

The court also notes that the declaration that Ms. White submitted in connection with this motion mischaracterizes the record and contains outright falsehoods about the behavior of the court. As previously stated, among other things, the court never yelled at counsel and never demonstrated any bias in favor of the Defendant. Plaintiff's counsel displayed disrespect to the court throughout the trial and continuously violated clear orders. Any admonishment to counsel was made in a calm, even tone and was made necessary by Plaintiff's counsel's misconduct.

M. The Evidence Overwhelmingly Favors A Defense Verdict

Even if the court had somehow committed error at trial (which the court had not done), any error was not prejudicial. The evidence overwhelmingly favored the defense. Plaintiff provided virtually no evidence to support his theory that he was fired in retaliation for good faith or bona vide complaints about patient or worker health or safety. The evidence also overwhelmingly showed that Plaintiff was fired for confronting a co-worker who had submitted a complaint about him, and for using the words "I'm going to kill you" in that confrontation, which was a legitimate reason to terminated him.

N. Plaintiff Makes No Argument in Support of a Judgment Notwithstanding the Verdict

Plaintiff also purports to seek a judgment notwithstanding the verdict, but Plaintiff makes no argument in support of that proposition. There would be no basis on which the court could enter judgment in favor of Plaintiff in this matter. The motion is DENIED.

Plaintiff also argues that the court "allowed" defense counsel to display an outdated version of the verdict form to the jury. The court did not do so. Instead, when a slide with the outdated verdict form was displayed, the court (before any objection by Plaintiff's counsel) stated that the court believed that there was an error.

For all of the foregoing reasons (among others), the motion for a new trial is DENIED.

Judicial Assistant is directed to give notice.

Certificate of Mailing is attached.

/s/ Kristin S. Escalante
Judge

**SPECIAL VERDICT FORM,
SUPERIOR COURT OF CALIFORNIA,
COUNTY OF LOS ANGELES
(NOVEMBER 16, 2022)**

SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF LOS ANGELES

JULIUS JANISSE,

Plaintiff,

v.

MARTIN LUTHER KING JR. – LOS ANGELES (MLK-LA) HEALTHCARE CORPORATION,

Defendant.

Case No. 19STCV27233

SPECIAL VERDICT FORM

Whistleblower Protection-Health or Safety Complaint (Labor Code Section 6310)

1. Did Julius Janisse on his own behalf or on behalf of others make an oral or written bonafide complaint to MLK-LA regarding unsafe or unhealthy working conditions, or exercise his rights to workplace health or safety?

Answer: No

[. . .]

Whistleblower Protection
(Labor Code Section 1102.5)

6. Did Julius Janisse disclose or complain to a person with authority over Julius Janisse or to an employee with authority to investigate, discover or correct legal violations or noncompliance with a state or federal statute, rule, or regulation?

Answer: Yes

7. Did Julius Janisse have reasonable cause to believe that the information disclosed was a violation of a state or federal statute, rule, or regulation or noncompliance with a state or federal statute, rule, or regulation?

Answer: No

[. . .]

Wrongful Discharge in Violation of Public Policy

13. Did MLK-LA discharge Julius Janisse?

Answer: Yes

14. Did Julius Janisse

a. disclose unsafe patient care or conditions to an employee at MLK-LA with authority to investigate, discover, or correct legal violations; or

b. make a bonafide complaint of unsafe employee conditions or unsafe work practices?

Answer: No

DAMAGES

18. If you answered yes to questions 5 or 17, or no to question 12, please answer question 19. If not, please have the Presiding Juror sign and date this form.

Please have the Presiding Juror sign and date this form.

Date: 11/16/2022

Print Name: Luis De Anita

Presiding Juror /s/ Luis De Anita

ORDER DENYING PETITION FOR REHEARING AND MOTIONS TO RECUSE, COURT OF APPEAL OF THE STATE OF CALIFORNIA, SECOND APPELLATE DISTRICT, DIVISION FOUR (SEPTEMBER 23, 2025)

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA SECOND APPELLATE DISTRICT DIVISION FOUR

JULIUS JANISSE,

Plaintiff and Appellant,

v.

MARTIN LUTHER KING JR. – LOS ANGELES (MLK-LA) HEALTHCARE CORPORATION,

Defendant and Respondent.

No. B326593
(Los Angeles County Super. Ct. No. 19STCV27233)

JULIUS JANISSE,

Plaintiff and Respondent,

v.

MARTIN LUTHER KING JR. – LOS ANGELES (MLK-LA) HEALTHCARE CORPORATION,

Defendant and Appellant.

No. B328707

(Los Angeles County Super. Ct. No. 19STCV27233)

Before: TAMZARIAN, J., ZUKIN, P.J., COLLINS, J.

ORDER

THE COURT:*

The court has read and considered Julius Janisse's Petition for Rehearing, Motion to Recuse Justices and for Reassignment to a Different Panel, and Request for Judicial Notice (the motions). The petition for rehearing and motions are hereby DENIED.

*/s/ Zukin, P.J.

/s/ Tamzarian, J.

/s/ Collins, J.

TRANSCRIPT OF PROCEEDINGS EXCERPTS, SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES (SEPTEMBER 29, 2022)

SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF LOS ANGELES

JULIUS JANISSE,

Plaintiff,

v.

MLK-LA HEALTHCARE CORP.,

Defendant.

No. 19STCV27233

Before: Hon. Kristin S. ESCALANTE, Judge.

[September 29, 2022, Transcript, p. 22]

I take it personal. And they are true. And so I think part of it because —

THE COURT: Who ordered that deposition? What is the Case number?

MS. WHITE: The person that ordered the deposition is Holly Fujie?

THE COURT: And what's the case number?

MS. WHITE: Let me look up the case number. He ordered it for all parties to be in the same room in this case.

THE COURT: And how are you going to be in the same room if you have covid?

MS. WHITE: Well, he meant for the parties to get these depositions because I have been accused of improper conduct.

THE COURT: I just need to know the case number. I don't need to know the details.

MS. WHITE: Okay. The case number is 20STCV10684.

THE COURT: Wait. I didn't hear you. Say it again.

MS. WHITE: 20-S-T-C-V10684. So, I mean, that — I take that matter very personal to me and I take it seriously. And the attack has been made against me and my reputation. I Don't take it lightly. So I need to be a part of it.

THE COURT: What's the date of the order that you are saying you were ordered to appear at that deposition?

MS. WHITE: The parties were ordered to take these depositions and be — she said to be in the same room. I can send you the transcripts if you want?

THE COURT: No, just tell me the date of the order.

MS. WHITE: Hold on. Let me look at the docket. The hearing was on — let me scroll down.

THE COURT: Because we were planning to be here on the jury instructions which you knew was going to be an all-day hearing.

MS. WHITE: Which do you want me to answer, your honor?

THE COURT: I want to know the order of the date that ordered you to be at the deposition this afternoon at 1:30.

MS. WHITE: The order was made on September 2nd, 2022.

THE COURT: This hearing was set after. So why did you not tell me on that date that you were ordered to be at a deposition on the date that we set this hearing for? There were plenty of dates that we could have set this hearing for which was going to be on jury instructions which everybody knows takes hours to do. And also your other outstanding motions.

MS. WHITE: She did not order the specific date. She ordered for these depositions to take place. And this deposition has to be coordinated with several attorneys. I did not know that I would be in court during jury instructions For an entire day. You ordered us to be in court for 10:00 A.M. You ordered us to be there yesterday for 10:00 A.M.

THE COURT: No, yesterday was 1:30 for the 402 Hearing. And the OSC that you filed an untimely response to.

MS. WHITE: Your Honor, this feels like an ambush. You said yesterday —

THE COURT: No, this is not ambush. I am just trying to figure out the solution to this problem. You know that I'm leaving. The whole point was to get all of this done before I leave on vacation and this was the day that we had set aside to get

it done. So I'm just confused as to why you agreed to set a deposition on a date when we had a hearing on these trial issues?

MS. WHITE: I have asked Holly Fujie to connect with you because I had a hearing in her courtroom and she said that I had not been in trial. But I have a record of —

THE COURT: Okay, counsel, this doesn't have to do with anything with my case.

MS. WHITE: She said she spoke — I'm confused about what is going on entirely amongst the courtrooms. I have no way of knowing.

THE COURT: I didn't see an order that you had to be anywhere. So it seems like — anyway, what is your proposal now?

MS. WHITE: Your Honor, I don't know. I'm just really Done at this moment. I don't know what to tell the court. I feel like I'm being attacked and I don't know what to say that is going to be acceptable to you and I don't want to get on bad terms with you because I have a lot of respect for you and I just don't know what else to tell you. I am trying my best.

THE court: And we don't have an update. So Mr. Jones has covid and he is too sick to participate it sounds like; is that correct?

MS. WHITE: Jones and his entire family has covid and He has two small babies under the age of 5.

THE COURT: I'm not asking for the explanation. So he definitely is not able to participate today be-

cause of his health issues, do I understand that correctly?

MS. WHITE: I didn't hear what you said, your honor, I'm sorry.

THE COURT: I'm just confirming that Mr. Jones is not available. I don't need to know the details. So you can say he is not available.

MS. WHITE: yeah, he is not available, your honor. He has a family emergency. And then so otherwise he would be here today Today too, but I'm the lead on this case. So even though I'm sick I'm trying to do what I have to do and I'm sick and I'm trying to be in this other thing at 1:30 as well because it involves a personal attack on me, which I don't take lightly. And it is egregious allegations that are not True and I'm trying to get to the bottom of it. And for that reason, Your Honor, I'm sorry about all of this. I hate being in this position, but judge Fujie wants to get to the bottom of this and I intend to do so because I don't appreciate it. And what is all said and done, I don't think she will appreciate it either.

THE COURT: So I don't need to know the details of beyond the fact that you are saying other than I guess we will continue this hearing. I need time to review the briefs and the authorities cited on both sides briefs anyway. So the only thing I can do is continue the hearing on that issue–that's just the issue of the bifurcation until tomorrow at. . . .

[. . .]

REQUEST FOR JUDICIAL NOTICE
(SEPTEMBER 18, 2025)

IN THE COURT OF APPEAL OF THE
STATE OF CALIFORNIA SECOND APPELLATE
DISTRICT – DIVISION FOUR

JULIUS JANISSE,

Plaintiff and Appellant,

v.

MARTIN LUTHER KING JR. – LOS ANGELES
(MLK-LA) HEALTHCARE CORPORATION,

Defendant and Respondent.

Court of Appeal Case Nos. B326593, B328707

Appeal from Los Angeles County Superior Court
Honorable Kristin Escalante, Judge
LASC Case No. 19STCV27233

REQUEST FOR JUDICIAL NOTICE

Twila S. White SBN 207424
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Hermosa, Beach, CA 90254
213.381.8749 phone
213.381.8799 fax
Email: twilawhiteesq@yahoo.com
Attorney for Plaintiff and Appellant Julius Janisse

[TOC Excluded]

TO THE HONORABLE PRESIDING JUSTICE AND ASSOCIATE JUSTICES OF THE COURT OF APPEAL, SECOND APPELLATE DISTRICT, DIVISION FOUR:

Appellant Julius Janisse respectfully requests this Honorable Court take judicial notice of the official records, certified transcripts, public documents, and communications described herein, pursuant to Evidence Code sections 452 and 459 and California Rules of Court, rule 8.252.

I. Introduction

This Request for Judicial Notice seeks the Court's recognition of documented evidence that demonstrates actual or apparent conflicts of interest affecting members of this Division during the pendency of this appeal. The materials presented herein are official government records, certified court transcripts, and verifiable public documents that directly relate to Appellant's pending Petition for Rehearing and Motion for Recusal.

Pursuant to Evidence Code sections 452 and 459 and California Rules of Court, rule 8.252, Appellant respectfully requests this Court take judicial notice of official government records, public articles, certified court transcripts, and contemporaneous communications that are directly relevant to Appellant's Petition for Rehearing and Motion for Recusal.

These documents confirm that members of Division Four (Justice Zukin, Justice Collins, and Audra Mori) had direct or indirect conflicts of interest while ruling on this appeal, and that the Judicial Appointments

Advisory Committee ("JAAC") was actively reviewing Appellant's trial counsel, Terrence Jones, for judicial appointment during the pendency of this appeal. Judge Holly Fujie was also on the JAAC when Jones was appointed during the pendency of this appeal.

II. Legal Authority

A. Evidence Code Section 452

Evidence Code section 452 provides that judicial notice may be taken of:

- (c) Official acts of the executive departments of the United States and of any state;
- (d) Records of any court of this state; and
- (h) 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.

B. Evidence Code Section 459

Evidence Code section 459 permits appellate courts to take judicial notice of any matter specified in section 452.

C. California Rules of Court, Rule 8.252

Rule 8.252 governs requests for judicial notice in appellate courts and permits such requests when the materials are relevant to the appeal.

D. Mandatory Nature

Judicial notice is mandatory when the statutory criteria are satisfied. (*Kilroy v. State of California* (2004) 119 Cal.App.4th 140, 145.)

III. Documents For Judicial Notice

Appellant respectfully requests this Court take judicial notice of the following materials:

Exhibit 1: 2021 Judicial Advisory Committee Roster

- Document Type: Official government roster
- Content: Identifies Holly Fujie and Helen Zukin as members of the Judicial Appointments Advisory Committee (JAAC)
- Relevance: Establishes the official roles of judicial officers involved in this case

Exhibit 2: Metropolitan News Article (June 27, 2019)

- Document Type: Published news article
- Content: Confirms Fujie and Zukin's roles as JAAC members
- Relevance: Public confirmation of committee membership contemporaneous with relevant time period

Exhibit 3: Governor's 2025 Press Release

- Document Type: Official executive department announcement
- Content: Official announcement of Terrence Jones's judicial appointment

- Relevance: Documents the appointment of Appellant's trial counsel during pendency of appeal

Exhibit 4: January 2025 JAAC Roster/Update

- Document Type: Official government document
- Content: Lists Zukin, Fujie, and Audra Mori as JAAC members during this appeal
- Relevance: Establishes contemporaneous committee structure during appeal proceedings

Exhibit 5: Social Media Post by Judge Rupert Byrdsong

- Document Type: Public social media post with photographs
- Content: Documents friendship between Judge Byrdsong and Justice Audrey Collins
- Relevance: Demonstrates personal relationships that may create appearance of bias

Exhibit 6: January 3, 2025 Email from Angela Machala

- Document Type: JAAC member communication
- Content: Confirms JAAC was actively reviewing Terrence Jones's appointment during pendency of this appeal

- Relevance: Establishes timing of judicial appointment review process

Exhibit 7: Certified Transcripts from Owens v. Kaiser

- Document Type: Certified court reporter's transcripts
- Content: Los Angeles Superior Court proceedings (Aug. 26, 2022 and Sept. 2, 2022) showing Judge Holly Fujie stated she called and spoke with Judge Kristin Escalante about case matters
- Relevance: Documents undisclosed inter-judge communications

Exhibit 8: Corrected Transcript from Janisse (Sept. 29, 2022),

- Document Type: Certified court reporter's transcript
- Content: Judge Escalante was informed by Twila White of the matter of Owens v. Kaiser in front of Judge Holly Fujie providing a case number. Fujie stated she has spoken to Escalante prior to September 29, 2022.
- Relevance: Confirms inter-judge communications regarding this specific case

IV. Argument

California Rules of Court, rule 8.809 provides in pertinent part:

1. To obtain judicial notice by a reviewing court under Evidence Code section 459, a party must serve and file a separate motion with a proposed order.

2. The motion must state:

A. Why the matter to be noticed is relevant to the appeal;

B. Whether the matter to be noticed was presented to the trial court and, if so, whether judicial notice was taken by that court;

C. If judicial notice of the matter was not taken by the trial court, why the matter is subject to judicial notice under Evidence Code section 451, 452, or 453; and

D. Whether the matter to be noticed relates to proceedings occurring after the order or judgment that is the subject of the appeal.

Cal. Rules of Court, rule 8.809(a); *see also id.*, rule 8.252.

Plaintiff meets the standard for judicial notice under California Rules of Court, rule 8.809 because the documents are relevant to this appeal and subject to judicial notice under Evidence Code §§ § 451, 452 and 453.

This Court "has the same power to take judicial notice as the trial court." *Jordan v. Cnty. of Los Angeles* (1968) 267 Cal.App.2d 794, 798; *Lockley v. Law Office of Cantrell, Green, Pekich, Cruz & McCort* (2001) 91 Cal.App.4th 875, 881. Judicial notice ordinarily may be taken of a court's own records, including the prior pleadings in a case. *See* Evid.

Code, § 452, subd. (d); *Gbur v. Cohen* (1979) 93 Cal.App.3d 296, 301; *Thayer v. Kabateck Brown Kellner LLP* (2012) 207 Cal.App.4th 141, 155– 156 ("[A] request for judicial notice allows parties to introduce records of any court of the State of California").

The documents are relevant to the case for the reasons outlined above.

Moreover, the documents are subject to judicial notice under Evidence Code §§ § 451, 452 and 453. Specifically, the transcripts and documents from the *Owens v. Kaiser* matter are considered "record" of this state (Evid. Code, § 452, subd. (d)) and they relate to proceedings occurring prior to the order on appeal.

For these reasons, Plaintiff requests this Court to enter an Order granting judicial notice of the attached documents.

A. Official Government Records Merit Mandatory Judicial Notice

Exhibits 1, 3, and 4 constitute official acts and records of executive departments and are subject to mandatory judicial notice under Evidence Code sections 452(c) and 452(d). These JAAC rosters and gubernatorial announcements are official government documents of unquestionable authenticity and accuracy.

B. Certified Court Records Are Properly Subject to Judicial Notice

Exhibits 7 and 8 are certified court reporter's transcripts from proceedings in Los Angeles Superior Court. These records fall squarely within Evidence

Code section 452(d) as "[r]ecords of any court of this state" and are subject to mandatory judicial notice.

C. Public Records and Communications Are Appropriate for Judicial Notice

Exhibits 2, 5, and 6 represent publicly available materials and verifiable communications that are not reasonably subject to dispute. The Metropolitan News article is a published report available to the public. The social media posts are publicly accessible communications. The Machala email is a contemporaneous communication from a JAAC member confirming committee activities.

D. Relevance to Pending Motions

These materials directly support Appellant's claims in the Petition for Rehearing and Motion for Recusal by establishing:

1. Structural Conflicts: The participation of Division Four justices in the JAAC while this appeal was pending
2. Contemporaneous Review: Active JAAC consideration of Appellant's trial counsel for judicial appointment during the appeal
3. Undisclosed Communications: Inter-judge communications about this case that were not disclosed to the parties
4. Appearance of Bias: Personal relationships and professional entanglements that create an appearance of impropriety

V. Conclusion

The requested materials satisfy all statutory requirements for judicial notice. They are official records, certified transcripts, and publicly available documents that are directly relevant to the constitutional and procedural issues raised in Appellant's pending motions. The Court's recognition of these materials is essential to a fair and complete consideration of the bias and conflict-of-interest claims presented.

WHEREFORE, Appellant respectfully requests this Court grant this Request for Judicial Notice and take judicial notice of Exhibits 1 through 8 as described herein.

Dated: September 18, 2025

Respectfully submitted,

Twila S. White
Law Offices of Twila S. White
Attorney for Plaintiff and Appellant
Julius Janisse

Declaration of Twila S. White

I, Twila S. White, declare the following:

1. I am an attorney admitted to practice before the courts of the State of California and the attorney for Plaintiff-Appellant Julius Janisse.

2. I make this Declaration based upon my personal knowledge of the matters set forth herein, and if called as a witness, I could and would competently testify thereto.

3. Attached to this Declaration are the following Exhibits:

Exhibit 1: 2021 Judicial Advisory Committee Roster

- Document Type: Official government roster
- Content: Identifies Holly Fujie and Helen Zukin as members of the Judicial Appointments Advisory Committee (JAAC)
- Relevance: Establishes the official roles of judicial officers involved in this case

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- Content: Judge Escalante was informed by Twila White of the matter of Owens v. Kaiser in front of Judge Holly Fujie providing a case number. Fujie stated she has spoken to Escalante prior to September 29, 2022.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Proposed Order

Having shown good cause, the Court grants Plaintiff-Appellant Julius Janisse's request and motion for judicial notice of the documents attached as Exhibit 1-8.

It is so ordered.

_____

PRESIDING JUDGE

EXHIBIT 1.
REGIONAL JUDICIAL SELECTION ADVISORY COMMITTEES

Regional Judicial Selection Advisory Committees

Bay Area Committee

- Christopher Arriola, Santa Clara County District Attorney's Office
- Diana Becton, Contra Costa County District Attorney's Office
- Judge Colin Bowen, Alameda County Superior Court
- Justice Tracie Brown, California Court of Appeal, First District
- Judge Eric Fleming, San Francisco Superior Court
- Judge Daniel Flores, San Francisco County Superior Court
- Justice Mary J. Greenwood, California Court of Appeal, Sixth District
- Paul Grewal, Facebook
- Kim Hunter, Alameda County District Attorney's Office
- Judge Jonathan Karesh, San Mateo County Superior Court
- Niall McCarthy, Cotchett, Pitre & McCarthy LLP
- Judge Heather Morse (Ret.), Santa Cruz County Superior Court

- Lindbergh Porter, Littler Mendelson PC
- Judge Joseph Quinn, San Francisco County Superior Court
- Justice Peter Siggins, California Court of Appeal, First District
- Quyen Ta, Boies Schiller Flexner LLP
- Judge Lydia Villarreal, Monterey County Superior Court
- Betsy Wolkin, Law Office of Betsy Wolkin

Central Coast Committee

- Judge Hernaldo Baltodano, San Luis Obispo County Superior Court
- Judge Tana Coates, San Luis Obispo County Superior Court
- Judge Von Deroian, Santa Barbara County Superior Court
- Judge George Eskin (Ret.), Santa Barbara County Superior Court
- Judge Ginger Garrett, San Luis Obispo County Superior Court
- Justice Arthur Gilbert, California Court of Appeal, Second District
- Judge Pauline Maxwell, Santa Barbara County Superior Court
- Justice Steven Perren, California Court of Appeal, Second District
- Jacquelyn Ruffin, Myers, Widders, Gibson, Jones & Feingold LLP

- Justice Martin Tangeman, California Court of Appeal, Second District
- Cheryl Temple, Ventura County District Attorney's Office

Central Valley Committee

- Richard Aaron, Dowling Aaron Incorporated
- Judge Marcos Camacho, Kern County Superior Court
- Judge Ricardo Córdova, Stanislaus County Superior Court
- Judge Ana de Alba, Fresno County Superior Court
- Justice Thomas DeSantos, California Court of Appeal, Fifth District
- Judge Mary Dolas, Fresno County Superior Court
- Judge Arlan Harrell, Fresno County Superior Court
- Justice Brad Hill, California Court of Appeal, Fifth District
- Mandy Jeffcoach, Whitney, Thompson & Jeffcoach
- Judge Chad Louie, Kern County Superior Court
- Justice Kathleen Meehan, California Court of Appeal, Fifth District
- Daniel Olmos, Nolan, Armstrong and Barton LLP

Inland Empire Committee

- Jack Clarke, Jr., Best Best & Krieger LLP
- Michael Fermin, San Bernardino County District Attorney's Office

- Justice Richard Fields, California Court of Appeal, Fourth District
- Judge Chad Firetag, Riverside County Superior Court
- Steven Harmon, Riverside County Public Defender's Office
- Eugene Kim, Stream Kim Hicks Wrage & Alfaro PC
- Judge Corey Lee, San Bernardino County Superior Court
- Judge Raquel Márquez, Riverside County Superior Court
- Judge Gilbert Ochoa, San Bernardino County Superior Court
- Judge Gail O'Rane, Riverside County Superior Court
- Justice Marsha Slough, California Court of Appeal, Fourth District
- Judge Burke Strunsky, Riverside County Superior Court
- Judge Sunshine Sykes, Riverside County Superior Court
- Judge Sharon Waters (Ret.), Riverside County Superior Court

Los Angeles County Committee

- Victoria Adams, Los Angeles County District Attorney's Office
- Justice Lamar Baker, California Court of Appeal, Second District

- Madison Fairchild, TransLatin@ Coalition
- Judge Holly Fujie, Los Angeles County Superior Court
- Eric George, Browne George Ross LLP
- Judge Rupa Goswami, Los Angeles County Superior Court
- Judge Dean Hansell, Los Angeles County Superior Court
- Judge Michelle Kim, Los Angeles County Superior Court
- Justice Elwood Lui, California Court of Appeal, Second District
- Justice Carlos Moreno (Ret.), Supreme Court of California
- Irene G. Nunez, Los Angeles County Public Defender's Office
- Christine D. Spagnoli, Greene, Broillet & Wheeler
- Roman Silberfeld, Robins Kaplan LLP
- Judge Sergio Tapia, II, Los Angeles County Superior Court
- Judge Bobbi Tillmon, Los Angeles County Superior Court
- Judge Michelle Williams-Court, Los Angeles County Superior Court
- Judge Helen Zukin, Los Angeles County Superior Court

Northern California Committee

- Judge Stephen Baker, Shasta County Superior Court
- Jerry Chong, Law Offices of Jerry L. Chong & Alice W. Wong
- Michael Colantuono, Colantuono, Highsmith & Whatley, PC
- Judge Sonia Cortes, Yolo County Superior Court
- Judge Lauri Damrell, Sacramento County Superior Court
- Judge Stacy Boulware Eurie, Sacramento County Superior Court
- Jinnifer Pitcher, Office of the Attorney General
- Justice Jonathan Renner, California Court of Appeal, Third District
- Judge Jesus Rodriguez, Butte County Superior Court
- Nancy Saracino, Western Energy and Water
- Jennifer Shaw, Shaw Law Group
- Julie Totten, Orrick, Herrington & Sutcliffe LLP
- Parker White, Poswall White & Brelsford

Orange County Committee

- Greg Bentley, Bentley & More LLP
- Judge Thomas Delaney, Orange County Superior Court
- Casey Johnson, Aitken Aitken Cohn
- Jennifer Keller, Keller/Anderle LLP

- Judge Elizabeth Macias, Orange County Superior Court
- Judge Joanne Motoike, Orange County Superior Court
- Justice Kathleen O'Leary, California Court of Appeal, Fourth District
- Mark Robinson, Jr., Robinson Calcagnie Inc.
- Judge Fred Slaughter, Orange County Superior Court
- Judge Nathan (Nhan) Vu, Orange County Superior Court
- Scott Zidbeck, Orange County District Attorney's Office
- Dean Zipser, Umberg Zipser LLP

San Diego County Committee

- Michael Attanasio, Cooley LLP
- Angela Bartosik, San Diego County Public Defender's Office
- Nadia Bermudez, Klinedinst PC
- Judge Enrique Camarena, San Diego County Superior Court
- Judge Peter Deddeh, San Diego County Superior Court
- Patrick Dudley, Law Office of Patrick Dudley
- Judge Carol Isackson (Ret.), San Diego County Superior Court
- Judge Daniel Lamborn, San Diego County Superior Court

- Jerrilyn Malana, San Diego County District Attorney's Office
- Justice Judith McConnell, California Court of Appeal, Fourth District
- Todd Stevens, Keeney, Waite & Stevens
- Judge Randa Trapp, San Diego County Superior Court
- Dwain Woodley, San Diego County District Attorney's Office

EXHIBIT 2.
METROPOLITAN NEWS ARTICLE
(JUNE 27, 2019)

Metropolitan News-Enterprise

Thursday, June 27, 2019

Page 1

Governor Dispenses With 'Secret Committees' To Evaluate Judicial Appointment-Seekers

Sets Up Eight Regional Committees of Advisers, Identifies Members

By a MetNews Staff Writer

Gov. Gavin Newsom yesterday identifed members of committees in eight regions of the state who will be providing feedback to him on potential judicial appointees, thus dispensing with "secret committees" used by his precessors for decades.

Newsom said:

> "Judges make decisions every day that affect every Californian. The people of our state have little insight on the process by which judges are chosen, it is only fair that the public knows who is helping to select the people who will serve them.
>
> "I thank the new members of the Judicial selection Advisory Committees for taking on this essential function of our democracy."

Los Angeles Members

Seventeen persons were identified as members of the Judicial selection Advisory Committee ("JSAC") for Los Angeles County.

Providing appellate court perspective are former California Supreme Court Justice Carlos Moreno, Presiding Justice Elwood Lui of this district's Div. Two, and Court of Appeal Justice Lamar Baker of this district's Div. Five.

Los Angeles Superior Court judges named to the committe are Holly Fujie, Rupa Goswami, Dean Hansel, Michelle Kim, Sergio Tapia II, Bobbi Tillmon, Michelle Williams-Court and Helen Zukin.

Attorneys who were named to the committee are Los Angeles Assistant District Attorney Victoria Adams, Los Angeles Public Defender's Office Division Chief Luis Rodriguez (a former State Bar president), and private practitioners Madison Fairchild, Eric George, Thomas Girardi, and Roman Silberfeld.

Additional Input

Governors are statutorily obligated to submit names of possible appointees to the State Bar Commission on Judicial Nominees Evaluation, although some, through the years, have questioned whether the Legislature may condition the governor's exercise of a state constitutional function in appointing judges. Input has also been received from such sources as the Los Angeles County Bar Association's Judicial Appointments Committee.

The announcement yesterday said:

"All feedback from the JSACs is advisory in

> nature only, and will be considered by the Governor's Office in combination with evaluations provided by the State Bar of California and county and affinity bar associations."

Other JSACs were formed for the Bay Area, Central Coast, Central Valley, Inland Empire, Northern California, Orange and San Diego regions.

Suggestions for Membership

Members of the JSACs were selected by Judicial Appointments Secretary Justice Martin Jenkins, a former Court of Appeal justice.

It was reported that suggestions to him for appointees to the JSACs were made by groups which included the California Women Lawyers; Mexican American Bar Association; California Asian Pacific American Bar Association; California Association of Black Lawyers; California Latino Judges Association; California Gay, Lesbian, Bisexual and Transgender Judges Association; the Judicial Council of the California Association of Black Lawyers; and the Association of African American California Judicial Officers.

Three members of the Court of Appeal for this district who are on Div. Six—which serves Ventura, Santa Barbara and San Luis Obispo counties—were appointed to the JSAC for the Central Coast. They are Presiding Justice Arthur Gilbert and Justices Steven Perren and Martin Tangeman.

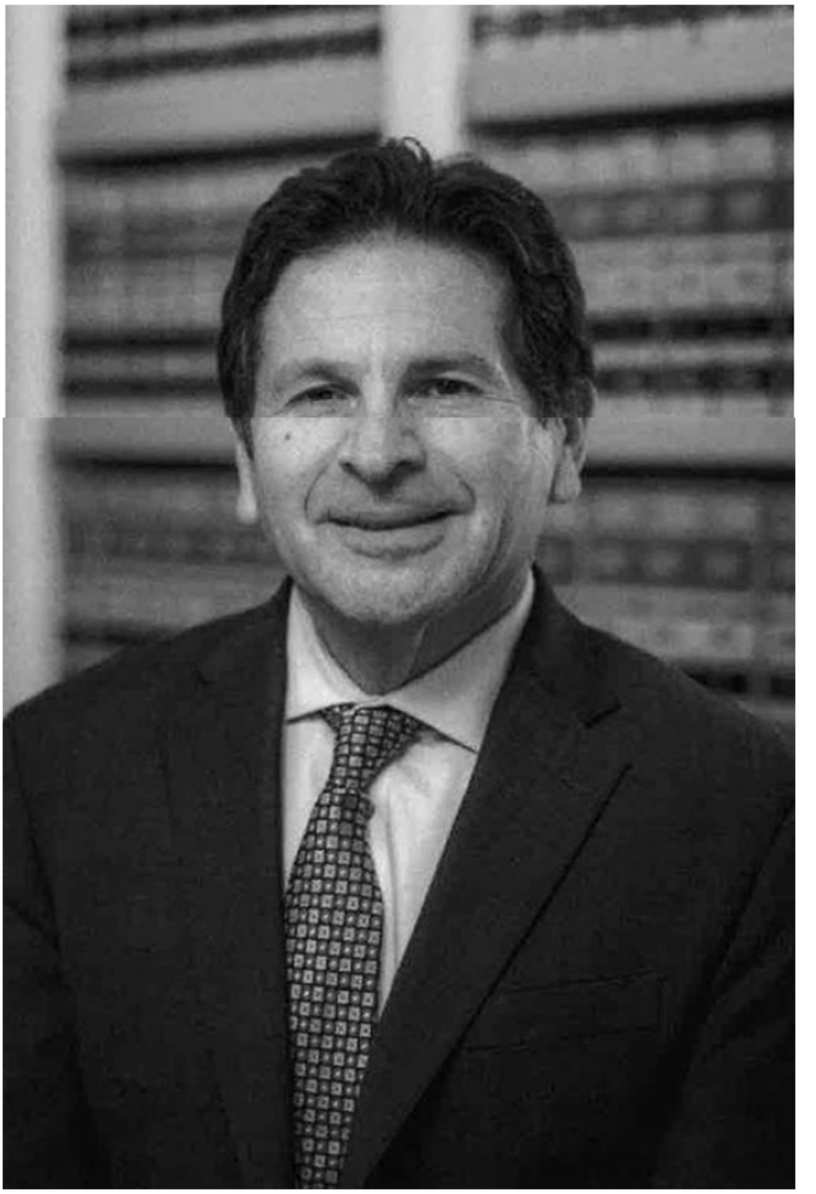
EXHIBIT 3.
GOVERNOR NEWSOM ANNOUNCES JUDICIAL APPOINTMENTS
(JUNE 18, 2025)

SACRAMENTO–Governor Gavin Newsom today announced his appointment of 16 Superior Court Judges: six in Los Angeles County; one in Merced County; one in Orange County; one in San Diego County; two in San Francisco County; three in Santa Clara County; one in San Joaquin County; and one in Tulare County.

Los Angeles County Superior Court

William Forman, of Los Angeles County, has been appointed to serve as a Judge in the Los

Angeles County Superior Court. Forman has been a Partner at Winston & Strawn, LLP since 2021. He was a Partner of Scheper Kim & Harris, LLP from 2009 to 2021. Forman was Counsel at Wilmer Hale from 2008 to 2009. He worked as an Associate at Heller Ehrman White & McAuliffe from 2003 to 2008. Forman served as a Deputy Federal Public Defender at the Federal Public Defender, Central District of California from 1997 to 2003. He was an Associate at Arnold & Porter from 1992 to 1997. He worked as an Associate at Jeffer Mangels Butler & Marmaro from 1990 to 1991. Forman received a Juris Doctor degree from Harvard Law School. He fills the vacancy created by the retirement of Judge-James A. Kaddo. Forman is a Democrat.



David Garcia, of Los Angeles County, has been appointed to serve as a Judge in the Losiihbd2dA Angeles County Superior Court. Garcia has worked

as a Supervising Attorney at Inner City Law Center since 2023. He worked as a Director of Investigations at Edison International from 2013 to 2022. He worked as a Senior Attorney at Southern California Edison Company from 1997 to 2013. He worked as an Assistant U.S. Attorney at the U.S. Attorney's Office, Central District of California from 1990 to 1997. He worked as a Deputy District Attorney at the Los Angeles County District Attorney's Office from 1986 to 1990. He worked as an Attorney at the U.S. Department of Justice from 1985 to 1986. Garcia received a Juris Doctor degree from the University of California, Los Angeles. He fills the vacancy created by the retirement of Judge Daniel Feldstern. Garcia is registered as a Democrat.

Sumako McCallum, of Los Angeles County, has been appointed to serve as a Judge in the Los Angeles County Superior Court. McCallum has served as a Court Commissioner for the court since 2024. She served as Senior Deputy County Counsel at the Office of County Counsel, County of Los Angeles from 2014 to 2024. She worked as a Staff Attorney at the Children's Law Center of Los Angeles from 2003 to 2014. McCallum worked as an Associate at Morrison & Foerster, LLP from 2000 to 2002. McCallum received

a Juris Doctor degree from the University of California, Los Angeles School of Law. She fills the vacancy created by the appointment of Judge Anne Hwang to the U.S. District Court for the Central District of California. McCallum is a Democrat.

Alan Z. Yudkowsky, of Los Angeles County, has been appointed to serve as a Judge in the Los Angeles Superior Court. Yudkowsky has served as a Court Commissioner on that court since 2019. He worked as Principal at the Law Offices of Alan Z. Yudkowsky from 2011 to 2019. Yudkowsky held multiple positions at Stroock & Stroock & Lavan since 1990, including Partner, Special Counsel, and Associate. Yudkowsky received a Juris Doctor degree from New York Law School. He fills the vacancy created

by the retirement of Judge Barbara M. Scheper, Yudkowsky is a Democrat

Melanie Chavira, of Los Angeles County, has been appointed to serve as a Judge in the Los Angeles County Superior Court. Chavira has served as a City Prosecutor at the Redondo Beach City Attorney's Office since 2012. She has worked as a Trial Advocacy Instructor at the Trial Advocacy Prosecution Program from 2012 to 2024. Chavira

served as a Prosecutor and Assistant Supervisor at the Los Angeles City Attorney's Office from 2002 to 2012. Chavira received a Juris Doctor degree from the University of California, Los Angeles School of Law. She fills the vacancy created by the retirement of Judge Mary Lou Villar. Chavira is a Democrat.

Terrence Jones, of Los Angeles County, has been appointed to serve as a Judge in the Los Angeles County Superior Court. Jones has worked as Chief Trial Counsel at Cameron Jones since 2022. He worked as Chief Trial Counsel at the Law Office of Terrence Jones from 2017 to 2022. Jones worked as an Associate at Ballard Spahr from 2015 to 2017. He served as an Assistant U.S. Attorney in the U.S. Attorney's Office, Central District of California from 2008 to 2015. Jones received a Juris Doctor degree from Loyola Law School. He fills the vacancy created by the appointment of Judge Serena R. Murillo to the

U.S. District Court for the Central District of California. Jones is a Democrat.

Merced County Superior Court

EXHIBIT 4.
GOVERNOR NEWSOM NAMES NEW MEMBERS
(SEPTEMBER 8, 2025)

Governor Newsom Names New Members to Regional Judicial Selection Advisory Committees

SACRAMENTO-Governor Gavin Newsom today announced new members to serve on the state's regional Judicial selection Advisory Committees (JSACs), which provide preliminary, non-partisan feedback on candidates and help promote a diverse and inclusive nomination process for California's judiciary.

The Governor today named Administrative Presiding Justice of the Sixth District Court of Appeal Mary J. Greenwood to serve on the Bay Area Judicial selection Advisory Committee; Los Angeles County Public Defender's Office head deputy-supervisor Irene G. Nunez and Greene, Broillet & Wheeler partner Christine D. Spagnoli to the Los Angeles Judicial selection Advisory Committee; and former Presiding Judge of the San Diego County Superior Court Peter Deddeh to the San Diego Judicial selection Advisory Committee.

In keeping with his commitment to increase transparency in government, the Governor last year announced the creation of eight Judicial selection Advisory Committees (JSACs)-representing the Bay Area, Central Coast, Central Valley, Inland Empire, Los Angeles, Northern California, Orange and San Diego regions comprised of attorneys and judges who

live and work in the regions. For the first time in California history, the individuals who provide important feedback on judicial candidates for nomination and appointment are known to the public.

Committee members convene at the request of Judicial Appointments Secretary Justice Martin Jenkins (Ret.) to provide feedback on candidates' legal acumen, work ethic, temperament and demonstrated commitment to public service. They review all candidates before forwarding their names to the Governor for review. All feedback from the JSACs is advisory in nature only, and is considered by the Governor's Office in combination with evaluations provided by the State Bar of California and county and affinity bar associations.

The JSACs are comprised of attorneys and judges, selected by the Judicial Appointments Secretary, who are in good standing with the State Bar of California and are diverse with respect to race, ethnicity, sexual orientation and gender, as well as substantive legal practice areas. In identifying potential committee members, the Judicial Appointments Secretary considers suggestions from members of California state and local bar organizations and California affinity bar organizations.

A complete list of committee members, by region, can be found here.

Regional Judicial Selection Advisory Committees

Bay Area Committee

- Quyen Ta, Skadden, Arps, Slate, Meaher & Flom LLP
- Lindbergh Porter, Littler Mendelson P.C.
- Judge Diana Becton, Contra Costa Superior Court (Ret.)
- Judge Colin Bowen, Alameda Superior Court
- Paul Byrne, Cornerstone Law Group
- Judge Micael Estremera, Santa Clara Superior Court
- Judge Eric Fleming, San Francisco Superior Court
- Judge Daniel Flores, San Francisco Superior Court
- Paul Grewal, Coinbase
- Justice Mary J. Greenwood, 6th District Court of Appeal
- Kim Hunter, Alameda County District Attorney's Office (Ret.)
- Justice Teri Jackson, 1st District Court of Appeal, Division 3
- Niall McCarthy, Cotchett, Pitre & McCarthy LLP
- Judge Heather Morse, Santa Cruz Superior Court (Ret.)
- Judge Russell Roeca, San Francisco Superior Court
- Judge Linda Villarreal, Monterey Superior Court (Ret.)

- Betsy Wolkin, Law Office of Betsy Wolkin

Central Coast Committee

- Justice Hernaldo Baltodano, 2nd District Court of Appeal, Division 6
- Judge Von Deroian, Santa Barbara Superior Court
- Judge Tana Coates, San Luis Obispo Superior Court
- Judge Kevin DeNoce, Ventura County Superior Court
- Judge Ginger Garrett, San Luis Obispo Superior Court (Ret.)
- Judge Matthew Guasco, Ventura Superior Court
- Judge Denise Hippach, Santa Barbara Superior Court
- Judge Pauline Maxwell, Santa Barbara Superior Court
- Justice Steve Perren, 2nd District Court of Appeal, Division 6
- Claudia Bautista, Ventura Office of the Public Defender
- Judge Craig van Rooyen, San Luis Obispo Superior Court
- Judge Crystal Tindell Seiler, San Luis Obispo Superior Court

Central Valley Committee

- Associate Justice Thomas DeSantos, Fifth Appellate District

- Judge Arlan Harrell, Fresno County Superior Court
- Judge Blanca Banuelos, San Joaquin Superior Court
- Judge Marcos Camacho, Kern County Superior Court
- Judge Ricardo Cordova, Stanislaus County Superior Court
- Judge Mary Dolas, Fresno County Superior Court
- Administrative Presiding Justice Brad Hill, Fifth Appellate District
- Mandy Jeffcoach, Whitney, Thompson and Jeffcoach
- Judge Heather Mardel Jones, Fresno Superior Court
- Judge Chad Louie, Kern County Superior Court
- Dan Olmos, Nolan Barton Olmos & Luciano
- Judge Antonio Reyes, Tulare Superior Court
- David Torres, Torres Law
- Judge Esmeralda Zendejas, San Joaquin Superior Court

Inland Empire Committee

- Judge Corey G. Lee, San Bernardino Superior Court
- Judge Chad W. Firetag, Riverside Superior Court
- Judge Manuel Bustamante, Riverside Superior Court

- Judge Carlos M. Cabrera, San Bernardino Superior Court
- Judge Michael A. Dauber, San Bernardino Superior Court
- Michael B. Fermin, San Bernardino District Attorney's Office
- Judge Candice A. Garcia-Rodrigo, San Bernardino Superior Court
- Judge Michelle H. Gilleece, San Bernardino Superior Court
- Steven L. Harmon, Riverside County Public Defender's Office
- Eugene Kim, Stream Kim Hicks Wrage & Alfaro
- Justin H. King, Law Offices of Justin H. King
- Judge Raquel A. Marquez, Riverside Superior Court
- Judge Gail A. O' Rane, Riverside Superior Court
- Justice Marsha Slough, 4th District Court of Appeal, Division 2
- Judge R. Glenn Yabuno, San Bernardino Superior Court

Los Angeles County Committee

- Justice Helen Zukin, Second Appellate District
- Judge Michelle Kim, Los Angeles County Superior Court
- Victoria Adams, Los Angeles District Attorney's Office

- Judge Huey Cotton, Los Angeles County Superior Court
- Judge Holly Fujie, Los Angeles County Superior Court
- Eric George, Brown, George & Ross LLP
- Judge Rupa Goswami, Los Angeles County Superior Court
- Judge Dean Hansell, Los Angeles County Superior Court
- Marissa Hernandez-Stern
- Judge Ruth Kwan, Los Angeles County Superior Court
- Justice Elwood Lui, Second Appellate District
- Angela Machala, Winston & Strawn
- Edith Matthai, JAMS
- Justice Carlos Moreno, California Supreme Court (Ret.)
- Justice Audra Mori, Second Appellate District
- Ibiere N. Seck, Seck Law
- Roman Silberfeld, Robins Kaplan LLP
- Christine D. Spagnoli, Greene Briollet & Wheeler LLP
- Judge Sergio Tapia, Los Angeles County Superior Court
- Judge Bobbi Tillmon, Los Angeles County Superior Court
- Ellisen Turner, Kirkland & Ellis LLP

Northern California Committee

- Nancy Sarcino, Water & Energy Strategies LLC
- Justice Stacy Boulware-Eurie, Third Appellate District
- Judge Steven Baker, Shasta County Superior Court
- Judge Michael Bowman, Sacramento County Superior Court
- Judge Christine Carringer, Solano County Superior Court
- Ismael Castro, California Office of Attorney General (Ret.)
- Judge Sonia Cortes, Yolo County Superior Court
- Judge Laurie Damrell, Sacramento County Superior Court
- Judge Satnam Rattu, Sacramento County Superior Court
- Jesse Rivera, Rivera Hewitt Paul
- Judge Jesus Rodriquez, Butte County Superior Court
- Megan Virga, Virga Law Firm

Orange County Committee

- Justice Kathleen O'Leary, 4th District Court of Appeal
- Attorney Greg Bentley, Bentley & More
- Justice Tom Delaney, 4th District Court of Appeal, Division 3

- Casey Johnson, Aitken Aitken Cohn
- Jennifer Keller, Keller Anderle
- Judge Elizabeth Macias, Orange County Superior Court
- Justice Joanne Motoike, 4th District Court of Appeal, Division 3
- Daniel Robinson, Robinson Cancagnie Inc.
- Darren Thompson, Orange County Office of the Public Defender
- Judge Nhan T. Vu, Orange County Superior Court
- Scott Zidbeck, Orange County Superior Court
- Dean Zipser, Umberg Zipser LLP

San Diego County Committee

- Administrative Presiding Justice Judith McConnell, Fourth Appellate District
- Nadia Bermudez, Meyers Nave
- Michael Attanasio, Cooley LLP
- Angela Bartosik, San Diego Office of the Public Defender
- Judge Enrique Camarena Jr., San Diego County Superior Court
- Judge Peter C. Deddeh, San Diego County Superior Court
- Patrick Dudley, Law Office of Patrick Dudley
- Eugene Iredale, Iredale & Yoo
- Judge Dan Lamborn, San Diego County Superior Court

- Jerrilyn Malana, San Diego County District Attorney's Office
- Judge Lilys McCoy, San Diego County Superior Court
- Todd Stevens, Keeney, White & Stevens
- Dwain Woodley, San Diego County District Attorney's Office

EXHIBIT 5.
JUDGE RUPERT BYRDSONG'S POST
(JULY 23, 2014)

The John M. Langston Bar Association

Rupert Byrdsong – Jul 23, 2014

The Langston Bar Association is extremely proud of welcoming three long time active members to judicial positions: Rupert Byrdsong to the Los Angeles Superior Court, Audrey Collins to the California Court of Appeals (Chief Justice Emeritus for the United States District Court, Central District, Central District of California), and Andre Birotte, Jr to the United States District Court, Central District of California. President John Anthony, thank you for continuing to move the needle and demonstrating the relevance of our beloved bar association. On a personal note, when I was president, Andre was on my board and Audrey was my Judge of the Year! I am so proud of them and proud to join them in representing Langston and the Southern California community from the bench.

EXHIBIT 6.
EMAIL FROM ANGELA M. MACHALA
(JANUARY 3, 2025)

Confidential: Attorney Terrence Jones

From: Machala, Angela M. (amachala@winston.com)
To: AMachala@winston.com
Date: Friday, January 3, 2025 at 12:40 PM PST

Hello, I am a member of California Governor Newsom's Judicial selection Advisory Committee and am writing because attorney Terrence Jones has applied to the superior court bench in Los Angeles County and listed you in his application as co-counsel on one or more matters. Please let me know if you have a few minutes this afternoon or sometime next week to chat with me.

Many thanks,

Angela Machala

Angela M. Machala
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Pronouns: She, Her, Hers

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EXHIBIT 7.
CERTIFIED TRANSCRIPTS FROM
OWENS v. KAISER
(AUGUST 26, 2022)

SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF LOS ANGELES – CENTRAL DISTRICT

DECORA OWNS, an individual,

Plaintiff,

v.

KAISER FOUNDATION HEALTH PLAN, INC., ET AL.,

Defendants.

No. 20STCV10684

DEPARTMENT 56

Before: Hon. Holly J. FUJIE, Judge.

[August 26, 2022, Transcript, p.1]

(PROCEEDINGS WERE HELD IN OPEN COURT.)

THE COURT: Back to number 2 on calendar, 20STCV10684.

MS. WHITE: Good morning, Your Honor. Twila White on behalf of the Plaintiff, Ms. Owens.

And, Your Honor, I also have a report of the supplemental briefing that was filed this morning.

THE COURT: Oh, it's too late. Oh, I'm sorry. I need to get appearances.

So who do we have on CourtCall for number 2 on the calendar, Owens vs Kaiser?

MS. JACOBSEN: Good morning, Your Honor. This is Zena Jacobsen, appearing on behalf of Defendants Kaiser Foundation Health Plan, Kaiser Foundation Hospitals, and Southern California Permanente Medical Group.

THE COURT: Thank you. Anyone else?

MS. GORE: Yes. This is Patice Gore for Defendant LaSalle Williams.

THE COURT: Thank you.

MS. WHITE: And, Your Honor, my co-counsel is on the . . . .

[. . .]

. . .department for the other trial, and that trial has not started yet. It was anticipated to start in mid-August, and we've been checking with that department several times a week, and it hasn't started. That's department 24. The case number is 19STCV27233.

I'm happy to respond to any of the other arguments that Plaintiff has made about the failure to provide timely the DFEH complaints and the fact that they did not meet-this evidence came in after the statutory deadline for Plaintiff to submit opposition, if the Court would like to hear argument from Defendants on those issues.

THE COURT: Ms. White, if I call up the judge in Department 24, are they going to say that you're in trial?

MS. WHITE: We started on Wednesday. We were supposed to start the week that I came in ex parte.

THE COURT: Okay. I may call.

MS. WHITE: And the judge's name is Kristen Escalante.

THE COURT: Okay. I'm going to call Judge Escalante.

All right. So we obviously can't deal with evidence that just comes in the day of the hearing on the motion. You have not been in trial. You say that it just started the day before yesterday.

MS. WHITE: But we kept showing up ready. We had to show up–

THE COURT: When you show up, then you aren't there all day. And, as I said, I will speak to Judge Escalante to find out exactly what your involvement has been.

Counsel for Defendants, have you seen the right to sue letter?

MS. JACOBSEN: This was the first time that we saw it, a couple hours after we had given notice for the tentative ruling. It's a complete surprise to us, as Ms. White acknowledged.

When we filed the opening brief, as this Court knows, for the motion for summary judgement back in November 2021, one of our arguments was failure to exhaust. In December–so just a couple weeks later–we decided to profound

discovery specifically asking for those complaints because, again, we had never seen them, never produced in discovery. Usually in my practice I see Plaintiffs attach those DFEH complaints as an exhibit to their initial filing. That was not done here, which is one of the reasons why we moved for summary judgement on that issue, which is one of the reasons why we propounded discovery.

And then, as this Court may remember, there's been several IDCs because Plaintiff didn't substantively respond to that discovery. And so, the first time we have ever seen any DFEH complaints was the night after we received the Court's tentative ruling.

I don't know if the Court has had time to look at Defendant's objections to that evidence and to the request for judicial notice, but, you know, we do have questions about their authenticity. Obviously, the stakes are high in terms of it's dispositive of the FEHA claims.

And of course if those–if the Court is inclined to consider those, and they are in fact genuine, then the rest of our arguments to defeat those claims come back into play.

So the direct answer to Your Honor's question, the first time we saw the DFEH complaints submitted by Plaintiff was at the same time the Court received them, which of course two days before this hearing.

THE COURT: All right. Let me ask Mr. Nguyen. Are you going to be taking over the handling of this case if I do not grant summary judgement today?

MR. NGUYEN: Yes. I will be assisting as co-counsel with Ms. White. There's a steep curve for me to catch up factually on the case, Your Honor, but, yes, I will be involved.

THE COURT: Because right now I'm seeing the issue is whether negligence on the part of Plaintiff's counsel should be something that I would take into consideration, clearly.

In cases of this type, it's very unusual not to see the right to sue letter attached. And when you don't attach it, it does make one think there isn't one. So having it not be produced, having it not show up at all until literally the eve of the hearing on a motion for summary judgement when the motion for summary judgement was filed what–ten months ago? Nine months ago? Is just in general not excused.

All right. I am going to take this under submission and think about what to do. I'm not happy about the fact that I was told repeatedly that you were in trial when you were not in trial. Okay? I don't like that. Okay? And I am going to talk to Judge Escalante.

MS. WHITE: Please do, Your Honor, and you will see that I am not making misrepresentations to the Court.

THE COURT: I think you already have. As I said, I'm going to think about this. If I do anything other than just stay with my tentative, then I will-because I don't think, for example, a motion for reconsideration would do anything because it's not new evidence. It's evidence that supposedly

has been in existence since the time this case was filed and before.

But whether I allow additional briefing by Defendant and additional evidence to be submitted by Defendant relating to that right to sue letter- and I would also assume, though, that you would need to do discovery with the DFEH to see whether this document is valid; correct?

MS. JACOBSEN: This is Zena Jacobsen speaking, Your Honor. Yes. Yes, we would want that opportunity and in fact have already made contact with the department to figure out what avenue we would go about in terms of trying to authenticate whether these were filed, what the content was, what the dates are, all of that. That is absolutely something we'd want to have the opportunity to do, should this Court decide to consider untimely. . . .

[. . .]

EXHIBIT 8.
CERTIFIED TRANSCRIPTS FROM
OWENS v. KAISER
(SEPTEMBER 2, 2022)

SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF LOS ANGELES

DECORA OWENS,

Plaintiff,

v.

KAISER FOUNDATION HEALTH PLAN, INC., ET AL.,

Defendant(s).

No. 20STCV10684

DEPARTMENT 56

Before: Hon. Holly J. FUJIE, Judge.

[September 2, 2022, Transcript, p.6]

THE COURT: all right. Thank you.

So you represent Taniyah Scott; correct?

MS. GALLAGHER: Yes, I do, your honor.

THE COURT: so as I said before, please, everybody identify themselves before they speak. All right.

and understand that Ms. White said that, when I asked for her to spell Ms. Scott's name, she said, "it's in the tentative." We have a court reporter here. All right. So she needs to have spellings. She does not have the tentative. All right.

Okay. So there were a lot of issues here, and as you can tell from the fact that we didn't post until fairly late, we struggled with this issue.

We struggle with the issue whenever somebody seeks to disqualify counsel because we are concerned about whether it is a technical matter, but I saw here what seemed to be a rather blatant disregard for the concept of people being represented by counsel—and we will hear from Ms. Gallagher on that issue—and also with the idea that someone would cancel—opposing counsel would cancel a deposition and the deposition would go forward, which it shouldn't be doing. So I have that issue.

I have also the issue of recording people, apparently without their consent, and I don't believe some indication that this is a recording line or something like that is sufficient to overcome the assumption or the indication that something is illegally recorded. You don't just record everything on every phone call you have in that regard.

And so I was concerned about that very much and the idea, again, that you go forward with the deposition where opposing counsel has said it has been canceled.

I also was concerned because, at the last hearing we had, there was some representations made last Friday regarding Ms. White being in trial, and that representation was a repetition of what had been made earlier in this connection with the ex parte application to continue trial.

And as I told Ms. White at the hearing last Friday, I was going to speak and I did speak with Judge Kristin, k-r-i-s-t-i-n, Escalante, e-s-c-a-l-a-n-t-e, with whom she was asserted to be in trial.

Judge Escalante told me that trial had not, in fact, started; that they were doing some pretrial matters; that she never holds trial on Friday; and that Ms. White was aware of that fact.

So her representation that she could not appear at a hearing on the motion for summary judgment—I'm sorry. It was an ex parte application to continue the motion for summary judgment/adjudication hearing, that you could not appear at that because you were in trial and you would be in trial with Judge Escalante, that was incorrect and you knew it was incorrect.

So there are a number of things that I have been concerned about in this case, and it's not just the matters that were stated in the tentative.

And I would be prepared to hear Ms. White on this subject certainly, and we'll—if I think it's appropriate, I'll hear from Ms. Gallagher regarding whether she was the one who was representing Ms. Scott on the day of her deposition, even though she apparently was not present to defend Ms. Scott at her deposition. All right.

So, Ms. White, I will—

MS. WHITE: Sure, I'll—

THE COURT: I will hear from you.

MS. WHITE: Sure. The court indicated that there was a blatant disregard for people who are represented by counsel. And I would posit to the court that it's the opposite, that Ms. Scott reached out to me on the morning of her deposition and she indicated that she was available; that she wanted to be deposed; and that kaiser's counsel was interfering with her ability; that kaiser's counsel was forcing her to be represented; that she did not want to be represented by kaiser's counsel; that she had spoken to the union; that she had written documents, a statement; and whatever she stated at her deposition would be the

[. . .]

MS. WHITE: Yes, I—

THE COURT: Look, just wait. Okay.

I want the sworn testimony of those witnesses. I don't care who they are represented by, frankly, at this point. I understand that the issue of representation makes it difficult to contact people. But all that being said, I want to see their deposition transcripts before I make a decision on this motion.

Okay. I also want to see the discovery responses relating to those recordings. I want to hear those —the testimony, not actually physically hear, but I want to read the testimony under oath of these witnesses regarding the recordings, regard-

ing the context, regarding their representation, all of those things. Okay.

I'm going to give you time—

MS. WHITE: Your honor, may I?

THE COURT: Yes.

MS. WHITE: I wanted to address one other issue, your honor, and I really do appreciate the court putting this over because we do want the evidence and we want the truth.

Your honor, with respect to the trial issue, you know, I really take that to heart because I have been in trial. Judge Escalante has not called in a jury because we've spent the last two weeks going over jury instructions and special verdict forms.

THE COURT: But you were not in trial on Friday.

MS. WHITE: Not on Friday, but she ordered a deposition that I have to take in the case for the trial. She ended up having to put off bringing in the jury because an issue came up regarding an affirmative defense.

THE COURT: Counsel.

MS. WHITE: So today—

THE COURT: Counsel.

MS. WHITE: —At 1:00 p.m., I have a deposition for that trial.

THE COURT: You said—

MS. WHITE: And I was supposed to be in Las Vegas speaking, but all of this is going on.

THE COURT: Counsel.

MS. WHITE: So I have to cancel the speaking—

THE COURT: Counsel.

MS. WHITE: —Commitment I made.

THE COURT: Counsel, please wait.

You represented to me that you were going to be in trial so that you could not be at a hearing on august 26th. You were not. Okay. And you did not say "I'm going to be in deposition," and as I understand, that was not ordered at that time. I understand—

MS. WHITE: Your honor.

THE COURT: —But—

MS. WHITE: Your honor.

THE COURT: —I am concerned that you are doing a little bit of—I need to know that counsel is being completely above board with me. Okay. And I don't like having to find things out myself.

So I'm just saying that's not going to be any basis that I would use, but I'm saying on a going-forward basis, Ms. White, please, I need you to be completely straightforward with me. Okay.

Okay. So—

MS. WHITE: And I appreciate that, your honor, and I think the court misunderstood what I was saying, but I understand, your honor.

THE COURT: Yeah. And we have—as I said, last week we had this hearing on the motion for summary

judgment, and the only reason I was—I was going to grant that MSJ because there was no evidence of a right to sue letter, and then it shows up.

So this has not been a case that's been entirely straightforward. I think that I would have been justified in granting that motion for summary judgment. I gave you leeway on this, and part of that was I told you I was going to be discussing this with Judge Escalante.

So as I said, I don't want to see anything where you have to kind of mold things around what's going on. I want it straightforward from now on.

So what I'm doing is I am continuing this hearing. I will continue it to the date of the motion for summary judgment hearing. We had talked about it

[. . .]

ENTRY OF RECUSAL DUE TO JUDGE BYRDSONG RELATIONSHIP WITH REGINALD ROBERTS, JR., IN *PIONTEK v. UBTECH ROBOTICS* (JUNE 24, 2020)

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES CIVIL DIVISION

JEFFREY WILLIAM PIONTEK,

v.

UBTECH ROBOTICS CORP., INC., et al.,

20STCV07884

Central District, Stanley Mosk Courthouse, Department 28

Judicial Assistant: S. Bousfield

Courtroom Assistant: S. Alexander

Before: Honorable Rupert A. BYRDSONG, Judge

NATURE OF PROCEEDINGS: Case Management Conference

The matter is called for hearing.

Pursuant to Code of Civil Procedure Section 170.1, Judge Rupert A. Byrdsong recuses himself from this case due to his relationship with Reginald Roberts, Jr., counsel for plaintiff.

The matter is transferred to Department One at Stanley Mosk Courthouse for reassignment purposes only.

All matters on calendar in this case are advanced to this date and vacated, to be rescheduled in the newly assigned department.

Department One will give notice of the new department.

FACEBOOK POST SHOWING CLOSE RELATIONSHIP BETWEEN JUDGE RUPERT BYRDSONG, RODNEY DIGGS, AND REGINALD ROBERTS (JUNE 29, 2022)

Transcription

Rupert Byrdsong >
The John M. Langston Bar Association

Jun 29, 2022 . . . in town as my former padawans, Rodney Diggs and Reginald Roberts! They are Jedi Masters at the top of their g… with Rodney Diggs

3 comments