TRINITY ALPS FARMS, INC. v BARRETT FARMS, LLC, et al

24CF14779

PLAINTIFF'S MOTION TO DETERMINE APPEARANCE; PLAINTIFF'S MOTIONS TO COMPEL ANSWERS AND DEEM MATTERS ADMITTED

This case involves a contract dispute involving an agreement to purchase two 40-ft freezer container units by Plaintiff from Defendants Barrett Farms LLC ("Barrett"), Wildseed LLC ("Wildseed"), Michael McClaren ("McClaren"), and Dashiel Miller ("Miller.")

Now before the Court are several motions filed by Plaintiff. In the interest of judicial efficiency, the motions will be considered together. The first three motions are motions to compel discovery filed by Plaintiff against Miller and Barrett. Plaintiff has also filed a motion to "determine appearance and request for entry of default" as to Barrett. Defendants have not filed any opposition to any of the motions.

I. Facts Relevant to the Motions

A. Barrett's Appearance

On September 30, 2024, Plaintiff filed its Complaint against Barrett and Does 1-10. On December 20, 2024, Plaintiff filed proof of service of the Complaint and summons on Barrett by personal service. At a Case Management Conference ("CMC") on January 8, 2025, Miller (who is not an attorney) appeared on behalf of Barrett. At that CMC, the Court noted that the Complaint had been properly served and that no answers had been filed. On that same date, Miller offered an Affidavit in response to the Complaint which was "filed on demand" by the court clerk. The Answer does not reference Barrett or attempt to respond on behalf of Barrett.

On May 9, 2025, Plaintiff filed a First Amended Complaint ("FAC") which added Wildseed, McClaren and Miller as defendants. Plaintiff filed a proof of service of the

FAC on Barrett on 8/20/25. On August 19, 2025, McClaren and Wildseed filed an Answer to the FAC as well as a cross-complaint against Barrett and Miller.

On October 13,2025, Plaintiff filed a Request for Entry of Default against Barrett. (Declaration of Zachary Drivon in Support of Motion to Enter Default ("Drivon Default Decl.") ¶ 4, Ex. C.) The Clerk denied the request on the grounds that Barrett had made a first appearance in the case. (*Ibid*.)

Barrett is an LLC and Miller is not a licensed attorney. (Drivon Default Decl. ¶ 5.)

On July 25, 2025, Plaintiff served Defendants Barrett, Wildseed, McClaren and Miller with initial sets of discovery, including: 1) Request for Admissions ("RFA"), 2) Special Interrogatories, Set One ("SROG"), and 3) Form Interrogatories, Set One ("FROG"). (Declarations of Zachary Drivon ("Drivon Decl.") in support of motions, ¶2, Ex. A.) Miller and Barret failed to provide responses to any of the discovery requests and did not request any extensions. (*Id*. ¶ ¶ 4, 5.)

II. Legal Standard and Discussion

A. Appearance of Barrett

"[U]nder a longstanding common law rule of procedure, a corporation, unlike a natural person, cannot represent itself before courts of record in propria persona, nor can it represent itself through a corporate officer, director or other employee who is not an attorney. It must be represented by licensed counsel in proceedings before courts of record." (*CLD Construction, Inc. v. City of San Ramon* (2004) 120 Cal.App.4th 1141, 1145.) Miller filed a purported Answer on his own behalf but has no authority to file one on behalf of Barrett. Additionally, as noted above the "affidavit" presented by Miller0n 1/8/25 was "filed on demand" as the Clerk noted irregularities in the format; the "Affidavit will be treated as an Answer on behalf of Miller but is legally meaningless as to Barrett. Accordingly, Barrett has not entered an appearance in this matter.

Generally, a court may not strike the pleadings of a self-represented corporation without first giving them an opportunity to obtain counsel and cure the defect. (See *CLD Construction*, supra, 120 Cal.App.4th at pp. 1146–1147.)

Barrett is ordered to obtain counsel and file a responsive pleading within thirty days of this Order. **Based on the foregoing, the Motion to Determine Appearance and Enter Default is denied, without prejudice to refile in the event Barrett fails to timely and properly appear**.

B. Discovery

Pursuant to Code Civ. Proc. section 2033.280, if a party to whom requests for admission are directed fails to serve a timely response, the following rules apply:

> (a) The party to whom the requests for admission are directed waives any objection to the requests, including one based on privilege or on the protection for work product under Chapter 4 (commencing with Section 2018.010). The court, on motion, may relieve that party from this waiver on its determination that both of the following conditions are satisfied:
>
> > 1) The party has subsequently served a response that is in substantial compliance with Sections 2033.210, 2033.220, and 2033.230.
> >
> > 2) The party's failure to serve a timely response was the result of mistake, inadvertence, or excusable neglect.

Further, the Court shall deem the facts admitted as truth, unless it finds that the party to whom the RFAs were directed, "has served, before the hearing on the motion, a proposed response to the requests for admission that is in substantial compliance with Section 2033.220." (Code Civ. Proc. § 2033.280(c).)

A party moving to compel initial responses under this section is not required to meet and confer. (*Sinaiko Healthcare Consulting, Inc. v. Pacific Healthcare Consultants* (2007) 148 Cal.App.4th 390, 411.)

Plaintiff served Miller and Barrett with RFAs on July 25, 2025. Miller and Barrett have not responded to the RFAs or to Plaintiff's meet and confer letter, have not responded to Plaintiff's counsel, and have not filed any opposition.

Accordingly, the Court **GRANTS Plaintiff's motion to deem the facts admitted as truth**.

Pursuant to Cal. Code Civ. Proc. § 2030.290, if a party to whom interrogatories are directed fails to serve a timely response then:

> (a) The party to whom the interrogatories are directed waives any right to exercise the option to produce writings under Section 2030.230, as well as any objection to the interrogatories, including one based on privilege or on the protection for work product under Chapter 4 (commencing with Section 2018.010). The court, on motion, may relieve that party from this waiver on its determination that both of the following conditions are satisfied:
>
> (1) The party has subsequently served a response that is in substantial compliance with Sections 2030.210, 2030.220, 2030.230, and 2030.240.
>
> (2) The party's failure to serve a timely response was the result of mistake, inadvertence, or excusable neglect.

Pursuant to Code Civ. Proc. section 2031.300, if a party to whom requests for production of documents fails to serve a timely response then:

> (a) The party to whom the demand for inspection, copying, testing, or sampling is directed waives any objection to the demand, including one based on privilege or on the protection for work product under Chapter 4 (commencing with Section 2018.010). The court, on motion, may relieve that party from this waiver on its determination that both of the following conditions are satisfied:
>
> (1) The party has subsequently served a response that is in substantial compliance with Sections 2031.210, 2031.220, 2031.230, 2031.240 and 2031.280.
>
> (2) The party's failure to serve a timely response was the result of mistake, inadvertence, or excusable neglect.

A party moving to compel initial responses under these sections is not required to meet and confer. (*Sinaiko Healthcare Consulting, Inc. v. Pacific Healthcare Consultants* (2007) 148 Cal.App.4th 390, 411.)

Miller and Barrett have failed to respond to the properly served FROGs and SROGs. Accordingly, the motion to compel responses to FROGs and SROGs is

GRANTED; Miller and Barret are to provide code complaint, verified responses, without objection within 30 (thirty) days of this Ruling.

III. Conclusion

The clerk shall provide notice of this ruling to the parties forthwith. The Court intends to sign the submitted proposed Orders on the discovery motions; Plaintiff to submit a formal Order complying with Rule 3.1312 in conformity with this Ruling as to Barrett's (non) appearance.

FOOTE, et al. v GOTTA LUV PIZZA, et al

24CV47525

PLAINTIFF'S MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT

This matter involves a class action for wage and hour violations. Now before the Court is Plaintiffs' motion for Preliminary Approval of Class Action Settlement.

The Motion does not comply with Local Rule 3.3.7. All matters noticed for the Law & Motion must include the following language:

> 3 3 7 Tentative Rulings (Repealed Eff 7/1/06, As amended 1/1/18) All parties appearing on the Law and Motion calendar shall utilize the tentative ruling system. Tentative Rulings are available by 2:00 p.m. on the court day preceding the scheduled hearing and can be accessed either through the court's website or by telephoning 209-754-6285. The tentative ruling shall become the ruling of the court, unless a party desiring to be heard so advises the Court no later than 4:00 p.m. on the court day preceding the hearing including advising that all other sides have been notified of the intention to appear by calling 209-754-6285. Where appearance has been requested or invited by the Court, all argument and evidence Is limited pursuant to Local Rule 3 3. All matters noticed for the Law & Motion calendar shall Include the following language in the notice:
>
> **Pursuant to Local Rule 3 3 7, the Court will make a tentative ruling on the merits of this matter by 2:00 p.m. the court day before the hearing. The complete text of the tentative ruling may be accessed on the Court's website or by calling 209-754-6285 and listening to the recorded tentative ruling. If you do not call all other parties and the Court by 4:00 p.m. the court day preceding the hearing, no hearing will be held and the tentative ruling shall become the ruling of the court** [emphasis in original.]
>
> Failure to include this language In the notice may be a basis for the Court to
>
> deny the motion.

Accordingly, the motion is **DENIED,** without prejudice to refile.

The clerk shall provide notice of this ruling to the parties forthwith. No further formal Order is required.

BUTTS v FCA US, LLC, et al

25CV47877

DEFENDANT'S MOTION TO COMPEL INITIAL DISCLOSURES

This matter involves claims around a car warranty brought by Alan D. Butts ("Plaintiff") against FCA US, LLC ("Defendant.") Now before the Court is a motion to compel initial disclosures brought by Defendant.

The Motion does not comply with Local Rule 3.3.7. All matters noticed for the Law & Motion must include the following language:

> 3 3 7 Tentative Rulings (Repealed Eff 7/1/06, As amended 1/1/18) All parties appearing on the Law and Motion calendar shall utilize the tentative ruling system. Tentative Rulings are available by 2:00 p.m. on the court day preceding the scheduled hearing and can be accessed either through the court's website or by telephoning 209-754-6285. The tentative ruling shall become the ruling of the court, unless a party desiring to be heard so advises the Court no later than 4:00 p.m. on the court day preceding the hearing including advising that all other sides have been notified of the intention to appear by calling 209-754-6285. Where appearance has been requested or invited by the Court, all argument and evidence Is limited pursuant to Local Rule 3 3. All matters noticed for the Law & Motion calendar shall Include the following language in the notice:
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> **Pursuant to Local Rule 3 3 7, the Court will make a tentative ruling on the merits of this matter by 2:00 p.m. the court day before the hearing. The complete text of the tentative ruling may be accessed on the Court's website or by calling 209-754-6285 and listening to the recorded tentative ruling. If you do not call all other parties and the Court by 4:00 p.m. the court day preceding the hearing, no hearing will be held and the tentative ruling shall become the ruling of the court** [emphasis in original.]
>
> Failure to include this language In the notice may be a basis for the Court to
>
> deny the motion.

Accordingly, the motion is **DENIED,** without prejudice to refile.

The clerk shall provide notice of this ruling to the parties forthwith. No further formal Order is required.

FARIDI v TDS TRUSTEE SERVICES

25CV48053

PLAINTIFF'S AMENDED MOTION FOR WRIT OF POSSESSION

Plaintiff Tariq Jamil Faridi ("Plaintiff") filed his Complaint arising out of a real property dispute with Defendant Steve Carlson ("Carlson".) Now before the Court is Plaintiff's motion for writ of possession.

Plaintiff filed his complaint against Carlson on May 19, 2025 and a first amended complaint on July 3, 2025. On July 11, 2025, upon Plaintiff's motion, all causes of action against Carlson were dismissed with prejudice.

At the case management conference on September 24, 2025, Plaintiff was directed to file proof of service of the FAC.

On November 21, 2025, Plaintiff filed a self-titled "Motion to Reinstate Steve Carlson as Defendant". The Court denied the motion, without prejudice, due to Plaintiff's failure to comply with Local Rule 3.3.7.

Plaintiff never refiled any type of motion seeking to reinstate Carlson as a defendant. Additionally, there is no evidence that Plaintiff served the FAC and summons on Carlson. Therefore, Carlson is not currently a party to this action and therefore no relief can be sought against him.

Accordingly, the motion for writ of possession is not properly before the Court and is therefore **DENIED, WITH PREJUDICE**.

The clerk shall provide notice of this ruling to the parties forthwith. No further formal Order is required.

FRAGOZA v TREVINO

25CV48144

CROSS-DEFENDANT'S DEMURRER TO FIRST AMENDED CROSS-COMPLAINT

This matter involves a real property dispute between Cruz Fragoza ("Fragoza") and Stevino Real Estate Investment, LLC ("LLC"), Steven C. Trevino ("Trevino"), Angela M. Barry ("Barry") and William Carter ("Carter") (collectively "Cross-Complainants.")

Now before the Court is a demurrer filed by Fragoza as to the fifth cause of action in the First Amended Cross-Complaint ("FACC") for intentional infliction of emotional distress.

The Court grants Fragoza's request for judicial notice ("RJN"). Cross-Complainants have not filed any oppositions to the RJN or the demurrer.

I. Facts

The facts are compiled from the Cross-Complaint and the judicially noticed documents.

LLC is the record owner of real property known as 2920 Heinemann Drive, Valley Springs, CA 95252, Assessor's Parcel Number 072-019-022 ("APN 2.")(FACC ¶ 3.) Trevino is a member of the LLC. (*Id*. ¶ 5.) Barry and Carter have been tenants since 2010 and 2017 respectively. (*Id*. ¶ 6.)

Next to APN 2 is an unimproved lot with a septic system, commonly known as 2912 Heinemann Dr., Valley Springs, CA, APN 072-019-021 ("APN 1.") (FACC ¶ 3.) APN 1 is owned by Cruz (*Id.* ¶ 7.) It is alleged that Cruz lost ownership of APN 2 through a foreclosure and trustee's sale in 2007-2008. (*Ibid.*) Cross-Complainants allege that the sewer lines and septic system on APN 1 serves the home on APN 2. (*Id.* ¶ 9.)

In 1999, Roger and June Jones transferred APN 1 and APN 2 in fee simple to Charles and Anna Benson ("Bensons") as joint tenants. Improvements including the house and septic system were constructed in or around 1999. (FACC ¶ 10.) Around August 28, 2000, the Bensons deeded APN 1 and APN 2 to Cruz and/or members of the Fragoza family ("Fragoza Deed"). (RJN 1.)

The Fragoza Deed refers to the transfer of Lots 2069 and 2070 as well as the septic easement across Lot 2069. (*Ibid*.) In or around November 2005, the Fragozas entered a Deed of Trust ("DOT") with Lenox Financial Mortgage Group with Mortgage Electronic Registration Systems, Inc ("MERS") listed as the beneficiary. (RJN 3.) The Deed of Trust references APN 1 and APN 2. (*Ibid*.) The Fragozas entered into another DOT with Louie and Juanita Curtis in December 2026 (RJN 4.) This DOT also referenced the transfer or Lots 2069 and 2070 as well as the septic easement across Lot 2069 (APN 2.) (*Ibid*.)

On May 30, 2007, LandAmerica Default Services recorded a notice of default as to the first DOT recorded in 2005 in favor of MERS. (RJN 5.) In September of 2007, a notice of trustee's sale was recorded. (RJN 6.) In or around February 2008, Deutsche Bank took ownership of APN 2. (RJN 7.)

On or about October 24, 2008, the LLC purchased APN 2 from Deutsche Bank ("LLC Deed") (RJN 8.) The LLC Deed references APN 2 and refers to two parcels: 1) Lot 2070, and 2) the septic easement over Lot 2069. (*Ibid*.) However, according to Cross-Complainants, while the LLC purchased APN 2 in 2008, from then onward the Cross-Complainants have "openly, notoriously, and continuously possessed and maintained both APN 1 and APN 2 as a single homesite: mowing, clearing brush, maintaining fencing, using and maintaining the septic system, and renting APN 2 as a residence to Barry and Carter." (FACC ¶ 14.)

On or around February 22, 2011, the LLC received a letter from the Office of Treasurer-Tax Collector of Calaveras County (the "Tax Office"). (CC ¶15.) The Tax Office letter stated that there was a delinquent tax bill APN 1, "which was included as part of a parcel that is now in your name 072-019-022 [APN 2]." (*Ibid*.) According to Cross-Complainants, the Tax Office indicated that the taxes had been resolved and Cross-Complainants had no idea that someone else was paying taxes on APN 1. (*Id*. ¶ 44.) There are no allegations that Cross-Complainants inquired as to how the tax issue was resolved nor whether any other entity was paying the taxes.

On July 28, 2011, Fragoza notified LLC that he was the owner of APN 1 and that he had intentions to sell APN 1. (FACC ¶ 16.) Allegedly another letter followed in 2017 complaining about Tenants' cutting of trees and threatening to place a cross-fence, "which Cross-Complainants understood primarily as a threat concerning Tenants' dogs rather than a concrete effort to alter property boundaries." (*Ibid*.)

In 2024, Fragoza's attorney apparently contacted the LLC asserting that Fragoza owned APN 1 in fee and that Cross-Complainants had only a limited septic easement. (FACC ¶ 17.)

In or around the spring of 2025, Fragoza appeared on the Property and erected a fence on the curtilage of APN 2's home, placed items over the septic system, and damaged and removed sections of the perimeter fence along the Property boundary. (FACC ¶ 18.) Cruz used a chainsaw and other tools to cut and remove fencing while the tenants were at home. Cross-Complainants perceived his conduct as aggressive and physically threatening and filed a civil harassment action in Case No. 25CH48034, which was later dismissed after they were unable to serve Fragoza. (*Id*. ¶ 19.)

II. Legal Standard

"A demurrer tests the sufficiency of a complaint and admits all facts properly pleaded." (*Setliff v. E.I.Du Pont de Nemours & Co.* (1995) 32 Cal. App. 4th 1525, 1533.) The court assumes the truth of the allegations asserted but does not assume the truth of "contentions, deductions, or conclusions of law." (*California Logistics, Inc. v. State of California* (2008) 161 Cal. App. 4th 242, 247.) The court can further look at those facts that "reasonably can be inferred from those expressly pleaded, and matters of which judicial notice has been taken." (*Fremont Indemnity Co.,* 148 Cal. App. 4th 100, 111.) In considering the demurrer, the court must accept the allegations set forth in the complaint as true. (*Serrano v. Priest* (1971) 5 Cal.3d 584, 591.)

III. Discussion

To assert a cause of action for intentional infliction of emotional distress, the FACC must allege: 1) extreme and outrageous conduct by the cross-defendant with the intention of causing, or reckless disregard of the probability of causing, emotional distress; (2) the cross-defendants' suffering severe or extreme emotional distress; and (3) actual and proximate causation of the emotional distress by the defendant's outrageous conduct. (*Ess v. Eskaton Properties* (2002) 97 Cal.App.4th 120, 129-130.) "Generally, conduct will be found to be actionable where the 'recitation of the facts to an average member of the community would arouse his resentment against the actor, and lead him to exclaim, 'Outrageous!'" (*KOVR-TV, Inc. v. Superior Court* (1995) 31 Cal.App.4th 1023, 1028 [citing Rest.2d Torts, § 46, com. d].) The conduct must not only be outrageous, but also "directed at the plaintiff, or occur in the presence of a plaintiff of whom the defendant is aware." (*Christensen v. Superior Court* (1991) 54 Cal.3d 868. 903.)

Here, the FACC alleges that Fragoza entered APN 2, where Barry and Carter were living, “wielding a chainsaw and other loud tools, and proceeded to cut, damage, and remove the perimeter fence and to erect new fencing in a confrontational manner, while Tenants were present in the home.” (FACC ¶ 46.) They allege that this behavior, along with blocking access to utilities, was outrageous behavior. (*Id.* ¶ 47.)

The only parties who could arguably raise this cause of action would be Barry and Carter, who were the only Cross-Complainants on the property at the time of the alleged fence cutting. However, the fact that the tenants were at home and disturbed by Fragoza’s actions simply does not give rise to the level of outrageous conduct required for this tort. Indeed, liability “does not extend to mere insults, indignities, threats, annoyances, petty oppressions, or other trivialities.” (*Molko v. Holy Spirit Assn.* (1988) 46 Cal.3d 1092. 1122 [citing Rest.2d Torts, § 46, com. d.])

IV. Conclusion

The demurrer is **SUSTAINED**, with 10 (ten) days leave to amend, for the fifth cause of action for intentional infliction of emotional distress.

The clerk shall provide notice of this ruling to the parties forthwith. Fragoza to submit a formal Order complying with Rule 3.1312 in conformity with this Ruling.

NICHOLAS v LEMP

25CV48280

PLAINTIFF'S MOTION FOR LEAVE TO FILE FIRST AMENDED COMPLAINT; DEFENDANT'S MOTIONS TO COMPEL DISCOVERY AND LICENSURE

These matters involve real property disputes between Danny E. Nicholas ("Plaintiff") and Lani Arellanes ("Arellanes") and Cathy Lemp ("Lemp.")

Now before the Court are three motions. Two are filed by Defendant Lemp: 1) motion to compel production of a certificate of licensure and 2) motion to compel discovery responses. The third filed by Plaintiff is a motion to amend the complaint.

All of the motions do not comply with Local Rule 3.3.7. All matters noticed for the Law & Motion calendar shall Include the following language in the notice:

> 3 3 7 Tentative Rulings (Repealed Eff 7/1/06, As amended 1/1/18) All parties appearing on the Law and Motion calendar shall utilize the tentative ruling system. Tentative Rulings are available by 2:00 p.m. on the court day preceding the scheduled hearing and can be accessed either through the court's website or by telephoning 209-754-6285. The tentative ruling shall become the ruling of the court, unless a party desiring to be heard so advises the Court no later than 4:00 p.m. on the court day preceding the hearing including advising that all other sides have been notified of the intention to appear by calling 209-754-6285. Where appearance has been requested or invited by the Court, all argument and evidence Is limited pursuant to Local Rule 3 3. All matters noticed for the Law & Motion calendar shall Include the following language in the notice:
>
> **Pursuant to Local Rule 3 3 7, the Court will make a tentative ruling on the merits of this matter by 2:00 p.m. the court day before the hearing. The complete text of the tentative ruling may be accessed on the Court's website or by calling 209-754-6285 and listening to the recorded tentative ruling. If you do not call all other parties and the Court by 4:00 p.m. the court day preceding the hearing, no hearing will be held and the tentative ruling shall become the ruling of the court** [emphasis in original.]

Failure to include this language In the notice may be a basis for the Court to deny the motion.

Accordingly, all three motions are **DENIED,** without prejudice to refile.

The clerk shall provide notice of this ruling to the parties forthwith. No further formal Order is required.

RAMIREZ v FAMILY DOLLAR, LLC, et al

25CV48285

DEFENDANT'S MOTION TO COMPEL ARBITRATION

Before the Court is a motion to compel arbitration filed by Defendants Family Dollar LLC, Family Dollar Services, LLC, and Family Dollar Operations, LLC (collectively "Defendants").

I. Factual and Procedural Background

Plaintiff began working for Defendants as a clerk in or around June 5, 2023. (Complaint ¶ 12.) When Plaintiff was initially hired, she informed her manager, Amy, that she suffered from mental disabilities, but was able to perform the essential duties of her position with reasonable accommodation without endangering the health or safety of herself or other employees of Defendants. (*Id.* ¶ 13.) On or around November 5, 2023, Plaintiff requested medical leave due to a cancer diagnosis. (*Id.* ¶ 14.) Instead of granting the request for leave, Defendants terminated Plaintiff on November 6, 2023. (*Id.* ¶ 15.)

Plaintiff alleges she was wrongfully terminated because of her disability and request for accommodation. Plaintiff filed her complaint alleging various violations of California's Fair Housing and Employment Act.

On January 26, 2026, Defendants moved for an order compelling the matter to arbitration pursuant to an alleged arbitration agreement ("Agreement") between the parties. Plaintiff opposes the motion.

II. Procedure and Burden of Proof on Petition to Compel Arbitration

In determining the enforceability of an arbitration agreement, the court considers "two 'gateway issues' of arbitrability: (1) whether there was an agreement to arbitrate between the parties, and (2) whether the agreement covered the dispute at issue." (*Omar v. Ralphs Grocery Co.* (2004) 118 Cal.App.4th 955, 961.) The trial court must first determine whether an "agreement to arbitrate the controversy exists." (Code Civ. Proc., 1281.2.) "Because the existence of the agreement is a statutory prerequisite to granting the petition, the petitioner bears the burden of proving its existence by a preponderance of the evidence." (*Rosenthal v. Great Western Fin. Securities Corp.*

(1996) 14 Cal.4th 394, 413.) The party seeking arbitration can meet its initial burden by attaching to the petition a copy of the arbitration agreement purporting to bear the respondent's signature. (*Espejo v. Southern California Permanente Medical Group* (2016) 246 Cal.App.4th 1047, 1060.) Alternatively, the moving party can meet its initial burden by setting forth the agreement's provisions in the motion. (Cal. Rules of Court, rule 3.1330.)

It then becomes respondent's burden in opposing the motion to prove by a preponderance of the evidence any fact necessary to the opposition. (*Espejo*, *supra* 246 Cal.App.4th at 1057.) "Code of Civil Procedure section 1281.2 requires a trial court to grant a petition to compel arbitration 'if the court determines that an agreement to arbitrate the controversy exists.'" (*Avery v. Integrated Healthcare Holdings, Inc*. (2013) 218 Cal.App.4th 50, 59, quoting Code Civ. Proc. § 1281.2.)

Generally, on a petition to compel arbitration, the court must grant the petition unless it finds either (1) no written agreement to arbitrate exists; (2) the right to compel arbitration has been waived; (3) grounds exist for revocation of the agreement; or (4) litigation is pending that may render the arbitration unnecessary or create conflicting rulings on common issues. (*Desert Reg'l Med. Ctr. v. Miller*, (2022), 87 Cal.App.5th 295, 308.)

III. Legal Analysis

Defendants have met their initial burden of showing the existence of the Agreement that appears to have been signed by Plaintiff on September 23, 2023. (Declaration of Vincent Votta ("Votta Decl.") ¶31, Ex. C.) (*Espejo v. S.Cal. Permanente Med. Grp*. (2016) 246 Cal.App.4th 1047, 1060 [party moving to compel arbitration may meet their initial burden to show an agreement to arbitrate by attaching a copy of the agreement purportedly bearing the opposing party's signature].) Defendants assert that the Agreement was signed as a necessary and indispensable part of the online application process. (Votta Decl. ¶ ¶ 29-31.)

However, Plaintiff contends not only that is the signature on the agreement is not hers, but also that she never submitted an online application. Specifically, Plaintiff avers that the only application she submitted was a hard-copy application, filled in by hand, and submitted in person at the store location of work located at 3502 Spangler Lane,

Copperopolis, California. (Declaration of Ramona Ramirez ("Ramirez Decl.") ¶ ¶ 2-3.) Plaintiff alleges that *after* she was already hired, her manager Amy called her into her office to let her know that certain paperwork needed to be completed. (*Id.* ¶ 7.) Amy asked Plaintiff to use Amy's office computer to fill out the paperwork but there was an issue with the computer. (*Id*. ¶ ¶ 8,9.) Amy informed Plaintiff that Amy would take care of the paperwork and Amy later informed Plaintiff that she had in fact done so. (*Id*. ¶¶ 10, 11.) Plaintiff never saw the completed paperwork and believes that Amy signed the documents, including the Agreement, on Plaintiff's behalf without Plaintiff's knowledge. (*Id.* ¶¶ 10, 11.) Because Plaintiff has asserted under oath that she did not see or sign the arbitration agreement, she has successfully carried her burden of producing evidence that challenges the authenticity of the agreement. (*Gamboa v. Ne. Cmty. Clinic*, (2021) 72 Cal.App.5th 158, 165 [declaring under penalty of perjury that the opposing party never saw the arbitration agreement or signed it is sufficient evidence to challenge the authenticity of the agreement].)

Accordingly, the burden returns to Defendants to show, by a preponderance of the evidence, that the agreement is valid. (*Gamboa*, *supra* 72 Cal.App.5th at 165.)

In reply, Defendants submit a second declaration from Vincent Votta ("Second Votta Decl.") averring that Defendants only hire individuals through the online process. (*Id.* ¶ 9.) He further avers that she could not have submitted her online application without agreeing to the arbitration agreement. (*Id.* ¶10.) Defendants provide no evidence or declaration from Amy – or anyone else present with Plaintiff when she alleged signed the Agreement – that contradicts Plaintiff's sworn statement. They further provide no evidence to contradict Plaintiff's sworn statement that she was hired in June of 2025, *via* the hard-copy application – and that she later was asked to complete other documents, by inference including the arbitration agreement. Thus, Defendants have not met their burden to show that the arbitration agreement is valid.

Based on the foregoing analysis, the motion to compel arbitration is **DENIED**.

The clerk shall provide notice of this ruling to the parties forthwith. Plaintiff to submit a formal Order complying with Rule 3.1312 in conformity with this Ruling.