

**TENTATIVE RULINGS for LAW and MOTION**  
**September 7, 2022**

Pursuant to Yolo County Local Rules, the following tentative rulings will become the order of the court unless, by 4:00 p.m. on the court day before the hearing, a party requests a hearing and notifies other counsel of the hearing. To request a hearing, you must contact the clerk of the department where the hearing is to be held. Copies of the tentative rulings will be posted on Yolo Court’s Website, at [www.yolo.courts.ca.gov](http://www.yolo.courts.ca.gov). If you are scheduled to appear and there is no tentative ruling in your case, you should appear as scheduled.

Telephone number for the clerk in Department Nine (530) 406-6819  
Telephone number for the clerk in Department Ten (530) 406-6816

**TENTATIVE RULING**

**Case:** Ali v. Valley Star Partners  
Case No. CV-2021-1047  
**Hearing Date:** September 7, 2022      Department Nine      9:00 a.m.

Plaintiff Samir Ali’s motion for order compelling defendants Valley Star Partners, LLC, Andre Solomon and Lidia Solomon’s further responses to form interrogatories and special interrogatories is **DENIED AS MOOT**. (Code Civ. Proc., §§ 2030.300.) Defendants served second supplemental responses to plaintiff’s discovery requests on August 18 & 23, 2022. (Smart Decl., ¶¶ 2 – 7.)

Should plaintiff deem defendants’ second supplemental responses deficient, he must first meet and confer on the claimed deficiencies, and then may file a motion to compel further responses with a separate statement outlining said deficiencies. (Prob. Code, §§ 2016.040, 2030.300; Cal. Rules of Court, rule 3.1345(a).)

If no hearing is requested, this tentative ruling is effective immediately. No formal order pursuant to California Rule of Court 3.1312 or further notice is required.

**TENTATIVE RULING**

**Case:** Din v. Sutter Health  
Case No. CV-2020-720  
**Hearing Date:** September 7, 2022      Department Ten      9:00 a.m.

Defendant Sutter Valley Hospitals, dba Sutter Davis Hospital’s (“SDH”) motion for summary judgment is **DENIED**. (Code Civ. Proc., § 437c.) After this Court’s ruling on SDH’s previous MSJ, plaintiff Dr. Adnan Din, M.D.’s second amended complaint contains two remaining causes of action: (1) a violation of Health and Safety Code section 1278.5 and (2) a violation of Business and Professions Code section 2056. SDH has not met its burden to show that a required element of plaintiff’s first cause of action cannot be established. (Code Civ. Proc., § 437c, subd. (p)(2); *Aguilar v. Atlantic Richfield Co.* (2001) 25 Cal.4th 826, 849, as modified (July 11, 2001).) It is unnecessary to reach plaintiff’s second cause of action as SDH has not established that it is

entitled to judgment as a matter of law. (Code Civ. Proc., § 437c, subd. (c); see *Homestead Savings v. Superior Court* (1986) 179 Cal.App.3d 494, 497-498.)

Regarding plaintiff's first cause of action, Health and Safety Code section 1278.5 protects members of medical staff and others who have engaged in protected activities and then suffered retaliation or discrimination. Health and Safety Code section 1278.5 provides that "[f]or purposes of this section, discriminatory treatment of an employee, member of the medical staff, or any other health care worker includes, but is not limited to, discharge, demotion, suspension, or any unfavorable changes in, or breach of, the terms or conditions of a contract, employment, or privileges of the employee, member of the medical staff, or any other health care worker of the health care facility, or the threat of any of these actions." (Health & Saf. Code, § 1278.5, subd. (d)(2), emphasis added.) Health and Safety Code section 1278.5 provides that "[a] member of the medical staff who has been discriminated against pursuant to this section shall be entitled to reinstatement, reimbursement for lost income resulting from any change in the terms or conditions of the member's privileges caused by the acts of the facility or the entity that owns or operates a health facility or any other health facility that is owned or operated by that entity, and the legal costs associated with pursuing the case, or to any remedy deemed warranted by the court pursuant to this chapter or any other applicable provision of statutory or common law." (Health & Saf. Code, § 1278.5, subd. (g), emphasis added.) SDH urges this Court to read Health and Safety Code section 1278.5, subdivision (d)(2) as defining and limiting discriminatory treatment to unfavorable changes in a medical staff member's privileges, contrary to the plain language of the statute that discriminatory treatment "includes, but is not limited to, discharge, demotion, suspension, or any unfavorable changes in, or breach of, the terms or conditions of a contract, employment, or privileges...." (Health & Saf. Code, § 1278.5, subd. (d)(2), emphasis added.) SDH has failed to establish that the legislature has defined and limited actionable discriminatory treatment to only the plaintiff's summary suspension.

In addition, although this Court concludes that SDH has not met its initial burden as the party moving for summary judgment, the Court also finds that plaintiff has set forth admissible evidence disputing that he resigned following notice of an impending investigation. (SDH's UMF 6; Din decl., ¶¶ 2-3.) Thus, a material issue of disputed fact exists that would preclude granting summary judgment.

If no hearing is requested, this tentative ruling is effective immediately. No formal order pursuant to California Rules of Court, rule 3.1312 or further notice is required.

#### TENTATIVE RULING

**Case:** **Din v. Sutter Health**  
**Case No. CV-2020-720**

**Hearing Date:** **September 7, 2022** **Department Ten** **9:00 a.m.**

Defendant Sutter Valley Hospitals, dba Sutter Davis Hospital's ("SDH") motion to strike jury demand is **GRANTED**. (See *Shaw v. Superior Court* (2017) 2 Cal.5th 983, 987 [A trial court ruling denying a request for a jury trial in a civil action is reviewable prior to trial by a petition for an extraordinary writ.])

First, plaintiff Dr. Adnan Din, M.D., concedes that he has no right to a jury trial with regard to his cause of action based upon Health and Safety Code section 1278.5. (Plaintiff's Memorandum of Points and Authorities, p. 1.) Second, this Court concludes that the gist of plaintiff's cause of action based upon Business and Professions Code section 2056 is equitable, rather than legal, and that plaintiff therefore has no right to a jury trial on that cause of action.

Under California law, the right to a jury trial in a civil action may be afforded either by statute or by the California Constitution. (*Shaw v. Superior Court*, *supra*, 2 Cal.5th at p. 993.) In instances in which the language and legislative history of a statute creating a civil cause of action do not indicate whether the Legislature intended that the action is to be tried by a jury or by the court, the question whether there is a right to a jury trial is generally determined by application of the state constitutional jury trial provision, now embodied in article I, section 16 of the California Constitution. (*Id.*, at p. 994.) The language of Business and Professions Code section 2056 does not expressly or implicitly provide a plaintiff a statutory right to a jury trial. Neither party has pointed this Court to legislative history demonstrating an intent to provide a jury trial to plaintiffs alleging violations of section 2056.

As a general matter, the California Constitution affords a right to a jury trial in common law actions at law that were triable by a jury in 1850, but not to suits in equity that were not triable by a jury at that time. (*C & K Engineering Contractors v. Amber Steel Co.* (1978) 23 Cal.3d 1, 8-9.) The constitutional right of trial by jury is not limited strictly to those cases in which it existed before the adoption of the Constitution but is extended to cases of like nature as may afterwards arise. (*People v. One 1941 Chevrolet Coupe* (1951) 37 Cal.2d 283, 300.) Because the constitutional right to a jury trial is broadly construed, it applies to newer causes of action that are of like nature or of the same class as a pre-1850 common law cause of action. (See *Franchise Tax Board v. Superior Court* (2011) 51 Cal.4th 1006, 1012 (*Franchise Tax Board*) [courts examine claims arising under a modern statute to see if they are of "like nature" or "of the same class as a common law right of action"].) SDH asserts that no claim for retaliation similar to that authorized by section 2056 existed under the common law at the time the California Constitution was adopted in 1850. (SDH's Memo of Ps & As, p. 6.) Plaintiff does not argue or cite to any authority that there was any cause of action at law in 1850 of a like nature or that plaintiff's claim under Business and Professions Code section 2056 is of the same class of actions at law that existed in 1850. (See plaintiff's Memo of Ps & As.)

Article I, section 16 of the California Constitution declares broadly that "[t]rial by jury is an inviolate right and shall be secured to all..." (*Shaw v. Superior Court*, *supra*, 2 Cal.5th at p. 994.) Notwithstanding the breadth of this declaration, past California cases make clear "that the state constitutional right to a jury trial 'is the right as it existed at common law in 1850, when the [California] Constitution was first adopted.'" (*Id.*, at pp. 994-995.) If the action has to deal with ordinary common-law rights cognizable in courts of law, it is to that extent an action at law. (*Id.*, at p. 995.) In determining whether the action was one triable by a jury at common law, the court is not bound by the form of the action but rather by the nature of the rights involved and the facts of the particular case—the *gist* of the action. (*Id.*) A jury trial must be granted where the *gist* of the action is legal, where the action is in reality cognizable at law. (*Id.*) On the other hand, if the action is essentially one in equity and the relief sought 'depends upon the application of equitable doctrines,' the parties are not entitled to a jury trial. (*Id.*) Although the legal or

equitable nature of a cause of action ordinarily is determined by the mode of relief to be afforded, the prayer for relief in a particular case is not conclusive. (*Id.*) Thus, the fact that damages is one of a full range of possible remedies does not guarantee the right to a jury. (*Id.*)

California's constitutional jury trial provision preserves the right to jury trial in civil actions comparable to those *legal* causes of action in which the right to jury trial existed at the time of the first Constitution's adoption in 1850 and does not apply to causes of action that are *equitable* in nature. (*Nationwide Biweekly Administration, Inc. v. Superior Court of Alameda County* (2020) 9 Cal.5th 279, 292–293.) At early common law, “legal” causes of action (or “actions at law”) typically involved lawsuits in which the plaintiff sought to recover money damages to compensate for an injury caused, for example, by the defendant's breach of contract or tortious conduct, whereas “equitable” causes of action (or “suits in equity”) sought relief that was unavailable in actions at law, such as an injunction to prohibit ongoing or future misconduct or an order requiring a defendant to provide specific performance or disgorge ill-gotten gains. (*Id.*, at p. 293.)

According to Business and Professions Code section 2056, the purpose of the section is to provide protection against retaliation for physicians who advocate for medically appropriate health care for their patients pursuant to *Wickline v. State of California* (1986) 192 Cal. App. 3d 1630. (Bus. & Prof. Code, § 2056, subd. (a).) Pursuant to section 2056, no person shall terminate, retaliate against, or otherwise penalize a physician and surgeon for that advocacy, nor shall any person prohibit, restrict, or in any way discourage a physician and surgeon from communicating to a patient information in furtherance of medically appropriate health care. (Bus. & Prof. Code, § 2056, subd. (c).) The statute is silent on what remedies should be available to an aggrieved physician and surgeon if any person terminates, retaliates, or otherwise penalizes that physician and surgeon for engaging in protected advocacy or communication. The harms listed, however, suggest a range of equitable remedies that a court may craft to address violations of the statute. (See, e.g., *Fletcher v. Security Pacific National Bank* (1979) 23 Cal.3d 442, 452–453 [a court of equity may exercise its full range of powers to accomplish justice between the parties; even in the absence of specific statutory authorization, a trial court has inherent power to order restitution as a form of ancillary relief].)

Plaintiff's second amended complaint (“SAC”) sets forth generally that plaintiff does not have a complete and adequate remedy at law and thus, is entitled to injunctive and other equitable relief to remedy the wrongs complained of in the SAC. (SAC, ¶ 49.) In his cause of action pursuant to Health and Safety Code section 1278.5, plaintiff claims economic losses, including past and future compensation (SAC, ¶ 75), mental and emotion[al] distress (SAC, ¶ 76), and oppression, fraud or malice warranting punitive damages (SAC, ¶ 77). In his cause of action pursuant to Business and Professions Code section 2056, plaintiff incorporates those claims (SAC, ¶ 78) and alleges “damages according to proof...” (SAC, ¶ 80.) The SAC includes a prayer for (1) injunctive relief against defendants in the form of an order (a) setting aside the summary suspension of plaintiff, retroactive to the date on which the suspension was imposed in July 2019, with lost compensation and related employment benefits, and (b) directing defendant SDH and SDH Medical Staff to inform the Medical Board of California and the National Practitioners' Data Bank of the fact that the summary suspension has been set aside; (2) for a finding that the peer review meeting resulting in the filing of an 805 report and with the Medical Board of

California and a separate report to the National Practitioners' Data Bank was conducted in bad faith; (3) for lost compensation and related employment benefits, past and future, according to proof; (4) for special damages according to proof; (5) for compensatory damages for mental and emotional distress; (6) for punitive damages; (7) for reasonable costs and attorneys fees where permitted by law; (8) for prejudgment interest on all sums owing; (9) for costs of suit; and (10) for such other and further relief that the court may deem just and proper. (SAC, pp. 13-14.)

Plaintiff argues that in his cause of action based on Business and Professions Code section 2056, he seeks only a legal remedy, specifically compensatory damages. (Plaintiff's Memorandum of Points and Authorities, p. 3.) Plaintiff argues he seeks no equitable relief based on his section 2056 cause of action. (*Id.*) Accordingly, plaintiff concludes the "gist" of his section 2056 claim is entirely legal. (*Id.*, at pp. 3-4.) This Court is not persuaded. First, as noted above, the prayer for relief is not conclusive. (*Shaw v. Superior Court, supra*, 2 Cal.5th at p. 995.) Further, the equitable relief sought in the SAC, including injunctive relief, is substantial and not anchored or limited to plaintiff's claim based on Health and Safety Code section 1278.5. (SAC, pp. 13-14.) Finally, equitable remedies and monetary claims are intertwined in the SAC and its prayer for relief.

If no hearing is requested, this tentative ruling is effective immediately. No formal order pursuant to California Rules of Court, rule 3.1312 or further notice is required.

#### TENTATIVE RULING

**Case:** **Singh v. Sangha**  
**Case No. CV-2015-1143**

**Hearing Date:** **September 7, 2022** **Department Nine** **9:00 a.m.**

Defendant/cross-complainant Amarjit Singh Sangha and defendant Reno's Mega Mart's ("defendants") request for judicial notice is **GRANTED**. (Evid. Code, §§ 452, subd. (d), 453.)

The Court rules upon defendants' motion to tax plaintiffs Gurdev Singh and Baljinder Kaur's ("plaintiffs") memorandum of costs as follows:

The Court finds that plaintiffs were the prevailing party at trial. (See *Friends of Spring Street v. Nevada City* (2019) 33 Cal.App.5th 1092, 1104 [in determining whether a party is a prevailing party who can recover costs, the trial court determines whether the party succeeded at a practical level by realizing its litigation objectives and whether the action yielded the primary relief sought in the case]; Statement of Decision, p. 17 ("SOD").)

1. The motion to tax deposition costs (\$6,311.75) is **DENIED**. (Code Civ. Proc., § 1033.5, subd. (a)(3)(A).) The Court finds that defendants have failed to meet their burden of showing why the challenged depositions were unnecessary. (See *Kern County v. Ginn* (1983) 146 Cal.App.3d 1107, 1113; Batchman Decl., ¶ 2; Shabani Decl., Exhibits 6, 7; Op. pp. 5 – 9.) The Court declines to address argument[s] made by defendants for the first time in their reply brief.
2. The motion to tax as to [expert] witness costs (\$176,197.29) is **GRANTED**. (Code Civ. Proc., § 1033.5, subd. (a)(8).) The Court accepts plaintiffs' concession to tax their non-

Court appointed [expert] witness costs. (Code Civ. Proc., 1033.5, subd. (b)(1).) The Court finds that the claimed costs for the Court appointed accounting referee, Anthony Delevati, was not *actually incurred* by plaintiffs, but by defendant G&S Gasoline, Inc. (“G&S”); thus, are not recoverable costs. (Code Civ. Proc., § 1033.5, subd. (c)(1); See *Wakefield v. Bohlin* (2006) 145 Cal.App.4th 963, 986, disapproved on another ground in *Goodman v. Lozano* (2010) 47 Cal.4th 1327, 1333 – 1334 [a prevailing party is entitled to recover only those costs actually incurred by that party or on that party’s behalf]; Batchman Decl., ¶ 5; March 8, 2017, Order; Op. pp 9 – 10, § C, 3.) Accordingly, the Court taxes this cost in the amount of **\$176,197.29**.

3. The motion to tax court reporter costs (\$28,095.71) is **GRANTED**. (Code Civ. Proc., § 1033.5, subd. (a)(11).) The Court finds that the claimed court reporter costs were not *actually incurred* by plaintiffs, but by G&S; thus, are not recoverable costs. (Code Civ. Proc., § 1033.5, subd. (c)(11); See *Wakefield, supra*, 145 Cal.App.4th at p. 986; Batchman Decl., ¶ 6; Op. p. 11, ll. 5 – 10.) The Court also notes that none of the identified transcripts of court proceedings were ordered by the Court. (Code Civ. Proc., § 1033.5, subd. (b)(5); Shabani Decl., Exhibit 3.) Accordingly, the Court taxes this cost in the amount of **\$28,095.71**.
4. The motion to tax interpreter costs (\$22,143.40) is **GRANTED**. (Code Civ. Proc., § 1033.5, subd. (a)(11).) The Court finds that the claimed interpreter costs were not *actually incurred* by plaintiffs, but by G&S; thus, are not recoverable costs. (Code Civ. Proc., § 1033.5, subd. (c)(11); See *Wakefield, supra*, 145 Cal.App.4th at p. 986; Batchman Decl., ¶¶ 7 – 8; Op., p. 12, ll. 5 – 7.) Accordingly, the Court taxes this cost in the amount of **\$22,143.40**.
5. The motion to tax other/mediation costs (\$4,333.33) is **GRANTED**. (Code Civ. Proc., § 1033.5, subd. (c)(2) – (4).) The Court finds that plaintiffs have not met their burden of showing that the mediations were reasonably necessary to the conduct of the litigation, and why such fees should be awarded as costs based on the facts and circumstances of this particular action. (See *Berkeley Cement, Inc., v. Regents of the Univ. of California* (2019) 30 Cal.App.5th 1133, 1141, 1143; *Landwatch San Luis Obispo County v. Cambria Community Services District* (2018) 25 Cal.App.5th 638, 645 – 646, citations omitted; *Foothill-De Anza Community College Dist. v. Emerich* (2007) 158 Cal.App.4th 11, 29 – 30, citations omitted [where costs are not expressly allowed by statute, the burden is on the party claiming the costs to show that the charges were reasonable and necessary]; See SOD; Batchman Decl., ¶ 9; Op., p. 13, l. 28, p. 14, ll. 1 – 4.) Accordingly, the Court taxes this cost in the amount of **\$4,333.33**.

Based on the foregoing, the Court taxes plaintiffs’ costs in the amount of **\$230,769.73** and awards plaintiffs’ costs in the amount of **\$7,539.22**. (Code Civ. Proc., §§ 1032, subd. (b), 1033.5.)

If no hearing is requested, this tentative ruling is effective immediately. No formal order pursuant to California Rules of Court, rule 3.1312 or further notice is required.

**TENTATIVE RULING**

**Case: Valley Tire Center, Inc. v. California Rock Transport, LLC**  
**Case No. CV-2022-0859**

**Hearing Date: September 7, 2022 Department Nine 9:00 a.m.**

Parties are **DIRECTED TO APPEAR.**