SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN

DATE: 07/02/25 TIME: 1:30 P.M. DEPT: H CASE NO: CV2102498

PRESIDING: HON. SHEILA S. LICHTBLAU

REPORTER: CLERK: ALINA ANDRES

PLAINTIFF: SCOTT GREEN vs. DEFENDANT: TREK RETAIL CORPORATION	

NATURE OF PROCEEDINGS: MOTION – OTHER: FINAL APPROVAL HEARING

RULING

Plaintiff has filed an unopposed motion for final approval of a common fund, non-reversionary wage and hour class action settlement of $285,000.00. On September 19, 2024, the court preliminarily approved the class settlement. Pursuant to the order the amended order, the Class Notice was mailed out on April 4, 2025, and class members had until May 19, 2025 to opt out of or object to the settlement. No class members objected to or requested exclusion from the settlement.

At a final approval hearing, the court must determine whether the settlement is fair and reasonable after considering whether was the product of arm's length bargaining by experienced counsel, was supported by sufficient investigation to ascertain Plaintiff's claims, and subject only to a small percentage of objections. (*In re Cellphone Fee Termination Cases* (2010) 186 Cal.App.4th 1380, 1389.)

In this case, the court previously determined that the settlement amount was reasonable and was the subject of arm's length bargaining after due diligence and investigation. The amount arrived at followed investigation of claims and an evaluation of the strengths and weakness of Plaintiff's case. The net settlement amount is calculated at $153,264.15 after deductions for attorney's fees and costs, as well as an individual payment award and settlement administrator costs. The court finds that notices were properly sent out and there were no objections. Accordingly, the court concludes that the settlement is fair and reasonable.

As to attorney's fees, Plaintiff seeks a one-third recovery of the gross settlement amount, in the amount of $95,000 using a common fund theory. However, a common fund award still should be cross-checked through the use of lodestar to determine whether the percentage allocate is reasonable. (*Lafitt v. Robert Half International* (2016) 1 Cal.5th 480, 503.) Based on the

declaration of counsel, the lodestar for Class Counsel exceeds $190,920. The court therefore, approves the attorney's fees request.

After reviewing the Declaration of Scott Green, including his testimony regarding the number of hours expended on this case, and the risks of proceeding, the court also approves the $10,000 Individual Settlement Payment and Service Award.

The parties shall appear to confirm there are no objections to the final approval of the class action and Plaintiff shall prepare a proposed order.

All parties must comply with Marin County Superior Court Local Rules, Rule 2.10(B) to contest the tentative decision. Parties who request oral argument are required to appear in person or remotely by ZOOM. Regardless of whether a party requests oral argument in accordance with Rule 2.10(B), the prevailing party shall prepare an order consistent with the announced ruling as required by Marin County Superior Court Local Rules, Rule 2.11.

The Zoom appearance information for July, 2025 is as follows:
https://marin-courts-ca-gov.zoomgov.com/j/1615487764?pwd=Ob4B5J7LLKcpnkxzJjjEOSHNzEGafG.1
Meeting ID: 161 548 7764
Passcode: 502070

If you are unable to join by video, you may join by telephone by calling (669) 254-5252 and using the above-provided passcode. Zoom appearance information may also be found on the Court's website: https://www.marin.courts.ca.gov

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN

DATE: 07/02/25 TIME: 1:30 P.M. DEPT: H CASE NO: CV0001356

PRESIDING: HON. SHEILA S. LICHTBLAU

REPORTER: CLERK: ALINA ANDRES

PLAINTIFF: CASCADE SETTLEMENT SERVICES LLC vs. DEFENDANT: BLUE STURGEON HOLDINGS LLC	

NATURE OF PROCEEDINGS: 1) MOTION – DISCOVERY – DISCOVERY FACILITATOR PROGRAM
2) MOTION – COMPEL ANSWERS TO INTERROGATORIES – DISCOVERY FACILITATOR PROGRAM
3) MOTION – COMPEL – DISCOVERY FACILITATOR PROGRAM

RULING

Defendant Blue Sturgeon Holdings LLC's motions to compel further responses to interrogatories and document requests are denied. The motion to reopen discovery for the deposition of David Morgenstein and for a late designation of expert witnesses is also denied.

Plaintiff's Verified Complaint

Cascade filed its Verified Complaint on November 14, 2023. Cascade alleges that its business includes purchasing and filing claims from entities or individuals entitled to recover funds from both existing class action lawsuit settlements and from pending class action litigation that could possibly result in settlement. (Complaint, ¶6.) Cascade is also hired to file claims directly on behalf of class members in exchange for a fee upon recovery. To offset the uncertainty of future recovery in pending litigation, Cascade often sells certain portions of the assets to third-party investors. (*Ibid.*) On or around July 15, 2013, Cascade entered into a written contract with Blue Sturgeon, the Master Origination and Service Agreement ("MOSA"), which involved Cascade's transfer of a portion of certain assets (with Cascade retaining the balance) consisting of certain claims that might arise from the potential settlement in a federal action titled *In re: Payment Card Interchange Fee and Merchant-Discount Antitrust Litigation* (the "Visa Antitrust Settlement"). In exchange for this transfer, Blue Sturgeon was to make an upfront payment to Cascade and Cascade would have a substantial retained interest in revenue from the claim. Cascade was to receive a percentage of the "Origination and Services Fee." (*Id.*, ¶7.) Under the MOSA, Blue Sturgeon appointed Cascade as its exclusive agent and attorney-in-

fact to take steps to obtain any claim recovery for which Blue Sturgeon may be entitled, including communicating with the Claims Administrator. (*Id.*, ¶8.) Section 2.7 provided that Blue Sturgeon "shall take no actions that materially diminish or infringe on [Cascade's] right to perform the Services and fully recover its Origination and Services Fee." (*Id.*, ¶9.)

On March 15, 2023, the Second Circuit upheld a final settlement in the Visa Antitrust Litigation. In early September 2023, the district court held a status conference at which it instructed the parties to begin the claims litigation process. Cascade believes that initial claims estimates will begin to be submitted to the Claims Administrator in December 2023, with the deadline to complete claim filing to occur sometime in May 2024. (*Id.*, ¶13.) On or about September 15, 2023, shortly after the settlement conference in the district court, Blue Sturgeon's counsel sent a letter to Cascade stating that, due to alleged changes in Cascade's claim-servicing personnel and alleged inaccurate claims calculations in certain distributions, the "MOSA is no longer in force." (*Id.*, ¶15.) The letter also stated that Blue Sturgeon had notified the Claims Administrator of the assignment of claims from Cascade to Blue Sturgeon and that all communication regarding the Visa Antitrust Settlement claims should be directed to Blue Sturgeon. (*Ibid.*) Cascade asserts causes of action for breach of contract, anticipatory breach of contract, and declaratory relief.

Blue Sturgeon's Cross-Complaint

Blue Sturgeon filed a Cross-Complaint on May 17, 2024. In its First Cause of Action, Blue Sturgeon alleges that Cascade breached the MOSA by failing to provide the services promised to Blue Sturgeon in the MOSA. In its Second Cause of Action, Blue Sturgeon alleges that Cascade misrepresented to Blue Sturgeon that Cascade was selling an exclusive interest in the claims sold to Blue Sturgeon under the MOSA, when Cascade knew it had obligations to third parties that would undervalue or undermine Blue Sturgeon's interest in its purchased claims. In its Third Cause of Action, Blue Sturgeon alleges that Cascade concealed material financial documentation that it is obligated to provide under the MOSA. In its Fourth Cause of Action, Blue Sturgeon alleges that Cascade violated the Unfair Competition Law by knowingly and intentionally selling assets and concealing its obligations to numerous entities, and making and/or disseminating false, misleading and deceptive statements to the public.

On June 13, 2025, the Court granted Cascade's motion for summary adjudication of the Second, Third and Fourth Causes of Action in the Cross-Complaint.

Motions to Compel Further Responses to Interrogatories and Document Requests

Blue Sturgeon moves to compel further responses to special interrogatories and document requests.

Cascade argues that Blue Sturgeon's motions should be denied because they do not include a separate statement as required under Rule of Court 3.1345(a) and because they are untimely under Code of Civil Procedure Section 2024.020. Section 2024.020 provides: "(a) Except as otherwise provided in this chapter, any party shall be entitled as a matter of right to complete discovery proceedings on or before the 30th day, and to have motions concerning discovery heard on or before the 15th day, before the date initially set for the trial of the action.

(b) Except as provided in Section 2024.050, a continuance or postponement of the trial date does not operate to reopen discovery proceedings."

Blue Sturgeon's motions are denied. Blue Sturgeon failed to include a separate statement with its motions. "When a motion fails to include a separate statement, a trial court is 'well within its discretion' to deny the motion." (*In re Marriage of Moore* (2024) 102 Cal.App.5th 1275, 1296 [citation omitted].) In addition, the motions are untimely under Section 2024.020. At the case management conference on July 15, 2024, the Court set an initial trial date of June 9, 2025, making May 23rd the discovery motion cutoff date. A party who notices a discovery motion to be heard after the discovery motion cutoff date does not have a right to have its motion heard. Blue Sturgeon's motion was originally set to be heard on August 13, 2025 and was advanced to July 2, 2025. Both of these dates are well past the May 23rd discovery motion cutoff date. While the moving party may request the Court to allow the motion to be heard after the discovery motion deadline, the party must file a motion, accompanied by a meet and confer declaration, to obtain this relief making the requisite showing under Section 2024.050. (*Pelton-Shepherd Industries, Inc. v. Delta Packaging Products, Inc.* (2008) 165 Cal.App.4th 1568, 1586-1587.) Blue Sturgeon has not done so.[1]

Blue Sturgeon's request for sanctions is denied.

Motion to Reopen Discovery to Take Deposition of Mr. Morgenstein and to Allow Late Designation of Expert Witnesses

Reopen Discovery

Blue Sturgeon moves for an order reopening discovery to allow the deposition of David Morgenstein, who it states is the Manager of Spectrum Settlement Recovery, LLC ("Spectrum"). Blue Sturgeon argues that during settlement discussions that occurred around the time of the discovery cutoff date, Cascade produced documents relating to Spectrum that were not produced in discovery, and which included contracts that revealed Spectrum was entitled to receive payment of certain agency fees. Blue Sturgeon further argues that "Mr. Morgenstein is a key individual in this matter because he is the individual that first asserted to BSH that there were "upstream" agency fees owed by BSH to entities such as Spectrum even though such agency fees were not disclosed by Cascade prior to the execution of the Master Origination and Servicing Agreement. (See Cross-Comp. ¶ 30.)" (MPA, p. 4:12-16.)

Code of Civil Procedure Section 2024.050 provides:

> (a) On motion of any party, the court may grant leave to complete discovery proceedings, or to have a motion concerning discovery heard, closer to the initial trial date, or to reopen

[1] Although Blue Sturgeon filed an ex parte application seeking an OST for its discovery motions to be heard, it did not file a motion to have the motions heard before the discovery motion cutoff under Section 2024.050. Blue Sturgeon merely asked the Court to set an earlier hearing date (and revised briefing schedule) because the motions were "scheduled to be heard after the set trial date" (currently July 14th). This was not a motion, accompanied by a meet and confer declaration, addressing the relevant factors under Section 2024.050 as is required for relief under Section 2024.050.

> discovery after a new trial date has been set. This motion shall be accompanied by a meet and confer declaration under Section 2016.040.
>
> (b) In exercising its discretion to grant or deny this motion, the court shall take into consideration any matter relevant to the leave requested, including, but not limited to, the following:
>
> (1) The necessity and the reasons for the discovery.
>
> (2) The diligence or lack of diligence of the party seeking the discovery or the hearing of a discovery motion, and the reasons that the discovery was not completed or that the discovery motion was not heard earlier.
>
> (3) Any likelihood that permitting the discovery or hearing the discovery motion will prevent the case from going to trial on the date set, or otherwise interfere with the trial calendar, or result in prejudice to any other party.
>
> (4) The length of time that has elapsed between any date previously set, and the date presently set, for the trial of the action.
>
> (c) The court shall impose a monetary sanction under Chapter 7 (commencing with Section 2023.010) against any party, person, or attorney who unsuccessfully makes or opposes a motion to extend or to reopen discovery, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

Blue Sturgeon claims it was diligent in seeking to take Mr. Morgenstein's deposition because it just received the Spectrum documents at the end of discovery.

Cascade argues that Blue Sturgeon has not been diligent because it has known about Mr. Morganstein for years. Blue Sturgeon's Cross-Complaint, which Blue Sturgeon itself references in its motion, was filed in May 2024 and references Mr. Morganstein by name. (See Cross-Complaint filed May 17, 2024, ¶¶29, 30, 35.) Paragraph 35 of the Cross-Complaint states, among other things, that "During one such conversation, Mr. Morgenstein stated that there were fees due to previously undisclosed third parties "upstream" of the ultimate payout to BSH." (*Id.*) In Blue Sturgeon's opposition to Cascade's motion for preliminary injunction, filed in November 2023, Blue Sturgeon argued: "Numerous video conferences and phone calls took place between Mr. Goggin, with counsel present, and Mr. Morgenstein regarding the payments owed to BSH. In one such conversation, Mr. Morgenstein asserted that he believed there were fees due to an undisclosed third party 'upstream' of the ultimate payout to BSH." (Opposition filed November 27, 2023, p. 4:9-12.) Mr. Morgenstein also submitted declarations in support of two of Cascade's pleadings – one on November 15, 2023 (motion for TRO) and one on December 4,

2023 (motion for preliminary injunction). In March 2024, both parties identified Mr. Morganstein in discovery responses as a person who may have discoverable information. (Declaration of Russell Taylor, ¶¶2, 3 and Exhs. A, B.) Further, Cascade produced emails between Keith Goggin, Blue Sturgeon's managing member, and Mr. Morgenstein dating back to September 2013. (*Id.*, ¶7.)

Blue Sturgeon's motion to reopen discovery to take Mr. Morganstein's deposition is denied. Blue Sturgeon has failed to show it acted with diligence and Cascade may suffer prejudice from a last minute deposition that could have been noticed months ago.

Late Designation of Expert Witnesses

Blue Sturgeon argues that it should be allowed to designate an expert witness after the deadline because the calculation of the fees to which Cascade contends it is entitled should be addressed through expert witness testimony.

Code of Civil Procedure Section 2034.710 provides:

> (a) On motion of any party who has failed to submit expert witness information on the date specified in a demand for that exchange, the court may grant leave to submit that information on a later date.
>
> (b) A motion under subdivision (a) shall be made a sufficient time in advance of the time limit for the completion of discovery under Chapter 8 (commencing with Section 2024.010) to permit the deposition of any expert to whom the motion relates to be taken within that time limit. Under exceptional circumstances, the court may permit the motion to be made at a later time.
>
> (c) The motion shall be accompanied by a meet and confer declaration under Section 2016.040.

Section 2034.720 provides:

> The court shall grant leave to submit tardy expert witness information only if all of the following conditions are satisfied:
>
> (a) The court has taken into account the extent to which the opposing party has relied on the absence of a list of expert witnesses.
>
> (b) The court has determined that any party opposing the motion will not be prejudiced in maintaining that party's action or defense on the merits.

(c) The court has determined that the moving party did all of the following:

(1) Failed to submit the information as the result of mistake, inadvertence, surprise, or excusable neglect.

(2) Sought leave to submit the information promptly after learning of the mistake, inadvertence, surprise, or excusable neglect.

(3) Promptly thereafter served a copy of the proposed expert witness information described in Section 2034.260 on all other parties who have appeared in the action.

(d) The order is conditioned on the moving party making the expert available immediately for a deposition under Article 3 (commencing with Section 2034.410), and on any other terms as may be just, including, but not limited to, leave to any party opposing the motion to designate additional expert witnesses or to elicit additional opinions from those previously designated, a continuance of the trial for a reasonable period of time, and the awarding of costs and litigation expenses to any party opposing the motion.

"[T]he trial court *shall not* grant leave to submit late expert witness information if *any* of the statutory conditions [in Section 2034.720] are not satisfied." (*Cottini v. Enloe Medical Center* (2014) 226 Cal. App. 4th 401, 421 (2014) [emphasis in original].)

Blue Sturgeon's motion is denied. Blue Sturgeon fails to explain why it did not designate an expert by the statutory deadline and has not shown exceptional circumstances allowing a late designation. Blue Sturgeon also fails to make any showing of the relevant factors for relief under Section 2024.720.

All parties must comply with Marin County Superior Court Local Rules, Rule 2.10(B) to contest the tentative decision. Parties who request oral argument are required to appear in person or remotely by ZOOM. Regardless of whether a party requests oral argument in accordance with Rule 2.10(B), the prevailing party shall prepare an order consistent with the announced ruling as required by Marin County Superior Court Local Rules, Rule 2.11.

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SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN

DATE: 07/02/25 TIME: 1:30 P.M. DEPT: H CASE NO: CV0003752

PRESIDING: HON. SHEILA S. LICHTBLAU

REPORTER: CLERK: ALINA ANDRES

PETITIONER: CITY OF VALLEJO, ET AL and DEFENDANT: CITY OF AMERICAN CANYON	

NATURE OF PROCEEDINGS MOTION – QUASH – DISCOVERY FACILITATOR PROGRAM

RULING

Respondents City of American Canyon and American Canyon City Council (collectively, "American Canyon") and Real Parties in Interest Buzz Oates, LLC and Buzz Oates Construction, Inc. (collectively "Buzz Oates") Motion to Quash all deposition subpoenas and deposition notices issued by Petitioners Roy Husong and City of Vallejo (collectively, "Petitioners") is GRANTED.

BACKGROUND

In October 2023, Francis Lemos, a resident of American Canyon, submitted the proposed initiative measure subsequently labeled "Measure K" and an associated "notice of intent" to circulate a petition to American Canyon, as required by Elections Code section 9202, subdivision (a). (AR 62.)

In January 2024, Ms. Lemos filed her petition for the "Net-Zero Energy Facilities Initiative," with more than enough signatures to qualify for the ballot or direct enactment by the City Council. (AR 111.) On February 6, 2024, at its regular meeting, the City Council accepted the certificate of sufficiency regarding the Measure K petition and adopted a resolution directing staff to prepare a report on the initiative in accordance with Elections Code section 9212. (AR 1–2 (Resolution No. 2024-12); AR 186–250 (transcript of meeting).)

On March 5, 2024, the City Council received and reviewed the "Elections Code Section 9212 Report." (See Elec. Code, § 9212, subd. (b) [report must be prepared within 30 days of petition's certification]; AR 3 (Resolution No. 2024-18); AR 257–336 (transcript of meeting).)

At that time, the City Council adopted Measure K without alternation pursuant to Elections Code section 9215. (AR 3–4; see Elec. Code, § 9215, subd. (c) [after a section 9212 report is presented, "the legislative body shall either adopt the ordinance within 10 days or order an election"].) Measure K amended the City's Zoning Code to allow qualifying warehouse projects in the City's General Industrial zoning district to receive ministerial permits.

On April 4, 2024, Petitioners filed a Verified Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief ("Petition") against Respondents challenging Respondents' adoption of Measure K on the grounds that Respondents failed to comply with CEQA and that Measure K is unconstitutional. The Petition names Buzz Oats as Real Parties in Interest.

Petitioners seek the depositions of nine (9) individuals in connection with the claims made in the Petition. These potential deponents include four (4) current American Canyon appointed officers and elected officials; two (2) former elected council members/the former American Canyon mayor; (1) applicant for the voter-initiated ballot measure ("Measure K"); and (2) attorneys that represent Respondent American Canyon and Real Party Buzz Oates, respectively.

Respondents filed the Motion to Quash all deposition subpoenas and deposition notices issued by Petitioners in this matter.

LEGAL STANDARD

Upon motion, the Court may issue an order quashing a subpoena requiring the attendance of witnesses. (Code Civ. Proc., § 1987.1.) The Court's order may quash the subpoena entirely, modify it, or direct compliance upon terms or conditions as the Court shall declare, including protective orders. (*Ibid.*; see Code Civ. Proc., § 2025.410 ["a party may also move for an order staying the taking of the deposition and quashing the deposition notice].) In addition, the Court may make any other order as may be appropriate to protect any party, deponent, or other person from unreasonable demands, unwarranted annoyance or undue burden and expense. (*Ibid.*; see also Code Civ. Proc., § 2025.420.)

DISCUSSION

Discovery in Section 1094.5 Proceedings Generally

Discovery is permitted in a California Environmental Quality Act (CEQA) action, but because the CEQA provision requiring document preservation for inclusion in the record of proceedings is mandatory and broadly inclusive, discovery to obtain components of the record should ordinarily be unnecessary. (Civ. Proc. Code, § 2016.020(a); Pub. Res. Code § 21167.6; *Golden Door Properties, LLC v. Superior Court of San Diego County* (2020) 53 Cal.App.5th 733, as modified on denial of reh'g, (Aug. 25, 2020) and review denied, (Nov. 10, 2020).)

Discovery to obtain components outside of the administrative record is similarly limited. In general, in administrative mandamus proceedings, the trial court may only consider the administrative record before the agency. However, "[w]here the court finds that there is relevant evidence that, in the exercise of reasonable diligence, could not have been produced or that was

improperly excluded at the hearing before respondent, it may ... admit the evidence at the hearing on the writ." (Code Civ. Proc., § 1094.5, subd. (e).) "This limitation on the admission of post-administrative evidence works a corresponding limitation on post-administrative discovery, restricting inquiries to those reasonably calculated to lead to the discovery of additional evidence admissible under the terms of section 1094.5." (*Fairfield v. Superior Court of Solano County* (1975) 14 Cal.3d 768, 771–772.)

Thus, to obtain post-administrative discovery, a party must first convince the trial court that the discovery is reasonably calculated to lead to relevant evidence that could not reasonably have been produced at the administrative hearing. "[D]iscovery under section 1094.5, unlike general civil discovery, cannot be used to go on a fishing expedition looking for unknown facts to support speculative theories." (*Pomona Valley Hospital Medical Center v. Superior Court* (1997) 55 Cal.App.4th 93, 102.)

"The stringent requirements set forth in section 1094.5, subdivision (e) require the moving party to identify what evidence is sought to be discovered for purposes of adding it to the record; to establish the relevancy of the evidence; and to show that either (a) any such relevant, additional evidence was improperly excluded at the administrative hearing, or (b) it could not have been produced at the hearing with the exercise of reasonable diligence. (Code Civ. Proc., § 1094.5, subd. (e).)" (*Pomona, supra,* 55 Cal.App.4th at p. 102.) The moving party's showing must be specific and may not consist of speculation which the party hopes to develop through discovery. (*Board of Dental Examiners v. Superior Court* (1976) 55 Cal.App.3d 811, 814.) "If the moving party fails to make the required showing, it is an abuse of the court's discretion to allow posthearing discovery." (*Pomona,* at p. 102.)

Although extra-record evidence is not admissible to contradict evidence upon which the administrative agency relied in making its quasi-legislative decision, or to raise a question regarding the wisdom of that decision, it may be admissible to provide background information regarding the quasi-legislative agency decision, to establish whether the agency fulfilled its duties in making the decision, or to assist the trial court in understanding the agency's decision. (*Western States Petroleum Assn. v. Superior Court* (1995) 9 Cal.4th 559, 579 (*Western States*); *Outfitter Props., LLC v. Wildlife Conservation Bd.* (2012) 207 Cal.App.4th 237, 251.)

Extra Record Evidence Sought Via Depositions

The gravamen of the Petition is that while "genuine" voter initiatives are exempt from CEQA compliance, Respondents' allegedly active participation in developing both the plan for and the language of Measure K, with the express intention of creating an avenue for Real Parties' development project to evade the consequences of Petitioners' pending challenge to that project's EIR, took the present fact pattern out from under the *Tuolumne Jobs* umbrella and CEQA compliance was required. (*Tuolumne Jobs & Small Business Alliance v. Superior Court* (2014) 59 Cal.4th 1029.)

Petitioners argue they seek depositions that go directly to the heart of their claims—that officials and representatives of the City of American Canyon unlawfully collaborated with Buzz Oates to orchestrate a nominally voter-sponsored initiative to sidestep pending judicial review of American Canyon's approval of the Giovannoni Logistic Center ("the project").

Petitioner previously submitted a request to American Canyon under the Public Records Act (Gov. Code, § 7920.000 et seq.) seeking "[a]ll correspondence, including e mail correspondence and text messages, between the City, its elected officials, employees, contractors, and consultants, and any person or entity, including but not limited to Buzz Oates LLC and Buzz Oates Construction, Inc., that references the proposed Initiative." The emails produced by Respondents are now contained in the Supplemental Administrative Record ("SAR").

The parties disagree about what these emails show, though Petitioners characterize them as establishing "a pattern of direct and sustained collaboration between American Canyon City Attorneys William Ross and counsel for Buzz Oates James Moose in preparing the text of Measure K."

Petitioners are vague on the additional evidence they seek via depositions or how it would differ from evidence already produced in the SAR. The depositions appear to this Court to be an expedition for unknown facts. (*Pomona, supra,* 55 Cal.App.4th at p. 102.) Such exploration is not permissible. (*Ibid.*)

For these reasons, the Motion to Quash is GRANTED.

All parties must comply with Marin County Superior Court Local Rules, Rule 2.10(B) to contest the tentative decision. Parties who request oral argument are required to appear in person or remotely by ZOOM. Regardless of whether a party requests oral argument in accordance with Rule 2.10(B), the prevailing party shall prepare an order consistent with the announced ruling as required by Marin County Superior Court Local Rules, Rule 2.11.

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SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN

DATE: 07/02/25 TIME: 1:30 P.M. DEPT: H CASE NO: CV0004481

PRESIDING: HON. SHEILA S. LICHTBLAU

REPORTER: CLERK: ALINA ANDRES

PETITIONER: SUSAN DAVIA and DEFENDANT: ORANGE CIRCLE STUDIO CORPORATION, ET AL	

NATURE OF PROCEEDINGS MOTION – GOOD FAITH SETTLEMENT

RULING

On November 12, 2024, Plaintiff Susan Davia filed a complaint against Defendant Orange Circle Studio Corporation for civil penalties and injunctive relief pursuant to Health and Safety Code section 25249.6 et. seq. ("Proposition 65") regarding Studio) H! Branded Lip Balm & Hand Lotion Set products with vinyl components which assertedly exposed users to di(2-ethylhexyl) phthalate (DEHP).

On May 9, 2025, the parties lodged a proposed judgment which attached a consent to judgment. Plaintiffs move for approval of the settlement pursuant to section 25249.7(f)(4) of the Health & Safety Code.

Section 25249.7 governs enforcement of Proposition 65 actions, which may be brought as a public or private suit. Violations are punishable through injunctive relief as well as civil penalties. (Health & Safety Code § 24259.7 (a), (b).) Courts may only approve settlements where it finds that the proposed warning required by the settlement complies with the Health & Safety Code, and the penalty and attorney's fee award is reasonable. In order for a warning to be reasonable, the manner of transmission must be reasonable, and the message must be sufficient clear to communicate the warning (*Environmental Law Foundation v. Wykle Research, Inc.* (2005) 134 Cal.App.th 60, 67 fn. 6.)

The court has reviewed the settlement terms and finds that the warning is adequate. (Health and Safety Code section 25249). The settlement provides that Orange Circle shall contact each retail customer that it reasonably believe to maintain Product inventory and advise them of the DEHP content and request that the products be labelled with a clear and reasonable Proposition 65 warning. It also requires that by March 1, 2025, Orange Circle shall contact each vendor and request that they only manufacture the vinyl components for the products to be Phthalate Free. Orange Circle also agrees not to distribute any of the subject product unless it

either meets the Phthalte Free chemical concentration standards or is labeled with Proposition 65 clear warnings.

It further finds that the civil penalties are reasonable. The settlement requires Defendants to pay penalties of $1,600 for its prior alleged violations of Proposition 65, and for increased penalties if it is discovered that Defendant distributed the subject products in an amount beyond what was communicated, or were distributed in a greater amount than previously disclosed.

It also finds that the requested attorney's fees of $30,000 is reasonable after review of counsel's declaration. The court finds that plaintiff's action was the catalyst for the change in conduct and that the work performed validates the negotiated fees.

Based on the above, the court approves the settlement and shall enter judgment on the settlement.

All parties must comply with Marin County Superior Court Local Rules, Rule 2.10(B) to contest the tentative decision. Parties who request oral argument are required to appear in person or remotely by ZOOM. Regardless of whether a party requests oral argument in accordance with Rule 2.10(B), the prevailing party shall prepare an order consistent with the announced ruling as required by Marin County Superior Court Local Rules, Rule 2.11.

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