# Tentative Rulings for June 24, 2026
# Department M302

### To request oral argument, you must notify
### Judicial Secretary Kari Gates at (760) 904-5722
### and inform all other counsel no later than 4:30 p.m.

This court follows California Rules of Court, Rule 3.1308 (a) (1) for tentative rulings (see Riverside Superior Court Local Rule 3316). Tentative Rulings for each law & motion matter are posted on the Internet by 3:00 p.m. on the court day immediately before the hearing at Riverside Superior Court-Tentative Rulings.. If you do not have Internet access, you may obtain the tentative ruling by telephone at (760) 904-5722.

To request oral argument, no later than 4:30 p.m. on the court day before the hearing you must (1) notify the judicial secretary for Department M302 at (760) 904-5722 and (2) inform all other parties of the request and of their need to appear remotely, as stated below. If no request for oral argument is made by 4:30 p.m., the tentative ruling **will become the final ruling** on the matter effective the date of the hearing. **UNLESS OTHERWISE NOTED, THE PREVAILING PARTY IS TO GIVE NOTICE OF THE RULING.**

**COUNSEL AND SELF-REPRESENTED PARTIES ARE ENCOURAGED TO APPEAR AT ANY LAW AND MOTION DEPARTMENT IN-PERSON OR VIA ZOOM VIDEO WHEN REQUESTING ORAL ARGUMENTS.**

For information and instructions on remote appearances via **ZOOM**, visit the court's website at Riverside Superior Court-Remote Appearances

You may also make a Telephonic Appearance: On the day of the hearing, call into one of the below listed phone numbers, and input the meeting number (followed by #):

- Call-in Numbers: 1-833-568-8864 (Toll Free), 1-669-254-5252, 1-669-216-1590, 1-551-285-1373 or 1-646-828-7666
- Meeting Number: **161 672 7660**

Please **MUTE** your phone until your case is called and it is your turn to speak. It is important to note that you must call fifteen (15) minutes prior to the scheduled hearing time to check in or there may be a delay in your case being heard.

**Riverside Superior Court provides official court reporters for hearings on law and motion matters only for litigants who have been granted fee waivers and only upon their timely request. (See General Administrative Order No. 2021-19-1) Other parties desiring a record of the hearing must retain a reporter pro tempore.**

1.

| CASE # | CASE NAME | HEARING NAME |
|---|---|---|
| CVSW2305420 | PENSERGA VS CITY OF TEMECULA | MOTION FOR SUMMARY JUDGMENT |

**Tentative Ruling:** Grant the motion for summary adjudication. Defendant to submit a Proposed Judgment Order within 10 days. OSC re: failure to submit the Proposed Judgment Order is set on July 16, 2026.

**Evidentiary Objections:**

As to Plaintiff's objections, Overrule # 1 & 3 and Sustain # 2 as hearsay.

As to City's objections: Overrule objections 1-11, 14, 18, 19, 21, 22, 23, and 57. Sustain objections 12, 13, 15, 16, 17, 20, 24 – 56, and 37.

As to **Plaintiff's Opposition to City's Separate Statement:** Plaintiff "disputes" all but eleven of City's 137 Undisputed Facts ("UF"). However, many of Plaintiff's "disputes" are not true disputes because they are either consistent with City's evidence or the evidence Plaintiff provides does not dispute the UF.

> For example, UF #4, 5, 6, and 29 describe Plaintiff's duty as an Office Aid I to involve logging reports, which involved **scanning, stapling, removing staples, clipping, un-clipping,** sorting, filing, compiling, typing, printing, and photocopying large volumes of paper, and opening, sorting, and distributing incoming mail and preparing outgoing mail. (Emphasis added.) Although Plaintiff disputes UF #4, 5, and 6, Plaintiff submitted a declaration wherein she states, "My duties included handling a large volume of paper records, which involved **repetitive stapling and unstapling, clipping and unclipping documents,** scanning, and uploading files to the system." (Plaintiff Decl., ¶4, emphasis added.) Based on Plaintiff's declaration, it is clear she has no basis to dispute UF #4, 5, and 6.
>
> Plaintiff also disputes UF #15, which states, "Ms. Fitzpatrick typically spent one to two hours every day removing staples and clips from reports so that Plaintiff could scan them." Plaintiff cites to her deposition, pgs. 250-251, as the evidentiary basis of her dispute. However, the cited evidence does not actually contradict the UF.
>
> "The opposing party's responses to the separate statement must be in good faith, responsive and material. Responses should directly address the fact stated, and if that face is not in dispute, **the opposing party must so admit**. It is completely unhelpful to evade the stated fact in an attempt to create a dispute where none exists." (*Beltran v. Hard Rock Hotel Licensing, Inc.* (2023) 97 Cal.App.5th 865, 875-876.) "Courts should…not hesitate to disregard attempts to game the system by the opposing party claiming facts are 'disputed' when the uncontroverted evidence clearly shows otherwise." (*Id.* at 876.)
>
> Accordingly, the Court relied on the evidence in support of the UF to determine if there truly is a factual dispute.

**Merits:**

**1st Cause of Action: Discrimination in Violation of FEHA**: It is undisputed that City hired Plaintiff on May 9, 2019 as an Office Assignment I. (City Undisputed Fact ("UF") #1.) Plaintiff's duties included handling a large volume of paper records, which involved repetitive stapling and unstapling, clipping and unclipping documents, scanning, and uploading files to the system. (UF #4-6, 29.) Nearly all of Plaintiff's job duties necessitated the use of her hands. (City Appendix of Evidence ["CAOE"], Exh. 5, Office Aide I Job Description; Obmann Decl., ¶5; Fitzpatrick Depo. 89:12-96:19.) It is undisputed Plaintiff received "exceptional" in all categories for her 2019-2020 and 2020-2021 Job Evaluations and was awarded a merit increase as a result. (Plaintiff UF ["PUF"] #7.) The evidence establishes Plaintiff suffered from a hand injury for which she requested accommodations. (UF #8, 9.) Effective November 13, 2020, City authorized a leave of absence for Plaintiff, advising it was unable to accommodate the restrictions in the Records Department. (Fitzpatrick Decl., ¶7.)

On March 17, 2022, while on medical leave, Plaintiff received the formal Notice of Termination. (PUF #52.) "Circumstantial evidence such as proximity in time between protected activity and alleged retaliation may establish a causal link" between any adverse employment action and the protected activity. (*Morgan v. Regents of Univ. of Cal.* (2000) 88 Cal.App.4th 52, 69.) The foregoing evidence establishes a prima facie case of unlawful discrimination. This shifts the burden to City to articulate a legitimate nondiscriminatory reason, one unrelated to prohibited bias to preclude a finding of discrimination. (*Guz, supra,* 24 Cal.4th at 358; *Villiarimo, supra,* 281 F.3d at 1063.)

City presents evidence that it authorized a leave of absence, effective November 13, 2020, after Plaintiff provided a medical note that provided for "avoiding repeated stapling/staple removal, lifting of no more than 5 lbs and no strenuous or repetitive motion to hands including typing for a full 4 weeks." (UF #10, 35; CAOE Exh. 11.) These restrictions continued until Plaintiff's return to work in April 2021. (Flores Decl., ¶¶10-14; CAOE Exhs. 12-16.) When Plaintiff returned to work, she was restricted from lifting more than 15 pounds, stapling documents, removing staples from documents, clipping and un-clipping documents, among other restrictions involving fine manipulation, pushing/pulling, and squeezing, which were discussed with Fitzpatrick. (UF #12, 36; Fitzpatrick Decl., ¶8.)

The day Plaintiff returned to work, City initiated the Interactive Process ("IP") and determined that it could reasonably accommodate her restrictions by placing her on modified work duty and removed essential duties that Plaintiff was unable to perform, to wit: lifting stacks or boxes of paper, removing staples and clips from documents, and repetitive typing, all of which are essential functions of an Office Aide I. (UF #11-13, 37-38.) Instead of Plaintiff performing the foregoing duties, Fitzpatrick and other staff performed them. (UF #14, 38-39.) City also provided Plaintiff with an electric stapler. (UF #40.)

On February 1, 2022, City's worker's compensation administrator received a Maximum Medical Improvement ("MMI") report from Dr. Perez that stated Plaintiff is permanently partially disabled with limited use of bilateral hands; limited forceful gripping and squeezing with bilateral hands; no lifting over 15 pounds; limited pulling or pushing over 15 pounds; and may wear splint/immobilizer for right thumb carpometacarpal. (UF #16, 44.) At the February 7, 2022 IP meeting, City advised Plaintiff that if she did not agree with her permanent work restrictions, she could obtain an opinion from a Qualified Medical Evaluator. (UF #18-19, 45-46.) City further advised Plaintiff that it would look for alternative vacant positions to accommodate

Plaintiff's permanent work restrictions but continued providing Plaintiff with the same accommodations. (UF #20, 22, 60.) On February 16, 2022, Dr. Perez provided a supplemental report that provided a list of Plaintiff's permanent work restrictions. (UF #24, 50.) Plaintiff emailed confirmation that she agreed with Dr. Perez's restrictions. (UF #25, 51.) Based on Dr. Perez's supplemental report, City determined Plaintiff could not perform the essential functions of her position of Office Aid I, with or without reasonable accommodation. (UF #26, 52.) City determined it could not reasonably accommodate Plaintiff without removing her essential job functions. (UF #27, 53.) Plaintiff was unable to log as many reports or scan as many documents as she did prior to receiving her work restrictions, and Plaintiff's coworkers became responsible for performing the job functions that Plaintiff was unable to perform. (UF #30-31, 56-57.) City determined Plaintiff could not perform the duties of alternate vacant positions as they required greater physical requirements than Plaintiff's Office Aid I position. (UF #61.) On March 3, 2022, City sent Plaintiff a Notice of Intent to Medically Separate Because of Inability to Reasonably Accommodate. (UF #62.) Plaintiff never requested any accommodations during the IP that were denied. (Plaintiff Depo., pg. 195:13-2; Flores Decl., ¶27; Rosner Decl., ¶2.) The foregoing evidence facially qualifies as legitimate, nondiscriminatory reasons sufficient to shift the burden back to Plaintiff, especially given Plaintiff agreed with Dr. Perez's supplemental report detailing her permanent work restrictions. Thus, the burden shifts back to Plaintiff to produce "substantial evidence" that city's stated nondiscriminatory reason for the termination was untrue or pretextual.

Plaintiff fails to present any evidence—much less substantial evidence—that City's reasons for Plaintiff's termination was untrue or pretextual. This is especially true given Plaintiff agreed with Dr. Perez's supplemental report detailing Plaintiff's permanent partial disability that prevented bilateral use of her hands.

**2nd Cause of Action: Failure to Provide Reasonable Accommodation in Violation of FEHA:** Plaintiff never requested any accommodations during the IP that were denied. (Plaintiff Depo., pg. 195:13-2; Flores Decl., ¶27; Rosner Decl., ¶2.) The evidence establishes City held IP meetings with Plaintiff to determine reasonable accommodations based on Plaintiff's medical limitations, placed Plaintiff on modified work duties, removed essential duties that Plaintiff was unable to perform, and delegated duties Plaintiff was unable to perform to other staff members, including Fitzpatrick. (UF #11-14, 37-39.) City also provided Plaintiff with an electric stapler and looked for vacant alternative positions. (UF 20, 22, 40, 60.) Ultimately, City determined Plaintiff could not perform the essential functions of the Office Aid I position with reasonable accommodation, and there were no vacant positions for which Plaintiff was qualified to perform given her permanent disability. (UF #61.)

City met its initial burden under Code of Civil Procedure section 437c, subdivision (b)(3). The burden shifts to Plaintiff. Plaintiff failed to meet her burden in presenting a triable issue of material fact. (*See* Code Civ. Proc., § 437c, subd. (b)(3).)

**3rd Cause of Action: Failure to Prevent Discrimination, Harassment, and Retaliation:** Because the first cause of action is subject to summary adjudication, the third cause of action is also subject to summary adjudication because this claim is derivative of the discrimination claim. (*Okorie v. Los Angeles Unified School District* (2017) 14 Cal.App.5th 574, 597.)

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| **CASE #** | **CASE NAME** | **HEARING NAME** |
|---|---|---|
| MCC1801149 | LUCA VS DIAZ | MOTION FOR ATTORNEY'S FEES |

**Tentative Ruling:** Grant the unopposed motion in the amount of $2,464.64.