

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN**

DATE: 03/08/10 TIME: 8:30 A.M. DEPT: E CASE NO: CV083115

PRESIDING: HON. JAMES R. RITCHIE

REPORTER: MARGARET COLLINS

CLERK: SHELLY DIENER

PLAINTIFF: KABITA CHOUDHURI

vs.

DEFENDANT: TODD BELL, ET AL

NATURE OF PROCEEDINGS: MOTION TO COMPEL – DEFENDANTS AND THEIR AGENTS TO OBSERVE COURT’S PRELIMINARY INJUNCTION AND REQUEST FOR SANCTIONS [PLTF] KABITA CHOUDHURI

RULING

PLAINTIFF’S MOTION TO COMPEL DEFENDANTS AND THEIR AGENTS TO OBSERVE THE COURT’S PRELIMINARY INJUNCTION IS DENIED. ALTHOUGH PLAINTIFF CONTENDS, AND DEFENDANTS CONCEDE, THAT DEFENDANTS SENT PLAINTIFF A “PROOF OF DEBT AND PAYOFF QUOTE,” SUCH CORRESPONDENCE DOES NOT RISE TO THE LEVEL OF A VIOLATION OF THE PRELIMINARY INJUNCTION. PLAINTIFF’S OTHER ALLEGATIONS ARE NOT RELEVANT TO THIS MOTION AND THE CONTINUANCE MOTION HAS BEEN PREVIOUSLY ADDRESSED. THE REQUEST FOR SANCTIONS IS DENIED AS MOOT.

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN**

DATE: 03/08/10 TIME: 8:30 A.M. DEPT: E CASE NO: CV084736

PRESIDING: HON. JAMES R. RITCHIE

REPORTER: MARGARET COLLINS

CLERK: SHELLY DIENER

PLAINTIFF: VICTORIA E. MACLEOD

vs.

DEFENDANT: KAISER PERMANENTE

NATURE OF PROCEEDINGS: 1) MOTION TO COMPEL – RESPONSES TO FORM INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS [DEFT] KAISER PERMANENTE
2) MOTION TO COMPEL – THE DEPOSITION OF VICTORIA MACLEOD [DEFT] KAISER PERMANENTE

RULING

THE MOTION OF DEFENDANT KAISER PERMANENTE IS GRANTED AND PLAINTIFF IS ORDERED TO APPEAR FOR DEPOSITION AND RESPOND TO DEFENDANT’S FORM INTERROGATORIES, SET NO. 1, AND REQUEST FOR PRODUCTION OF DOCUMENTS, SET NO. 1, ON OR BEFORE MARCH 31, 2010. GIVEN PLAINTIFF’S MEDICAL CONDITION AND HER COUNSEL’S EFFORTS TO OBTAIN DISCOVERY, AND AWARD OF SANCTIONS WOULD BE UNJUST. (CCP §2023.030(a).) IF PLAINTIFF CANNOT COMPLY WITH THESE PRELIMINARY DISCOVERY REQUESTS, THE COURT WILL RECONSIDER THE QUESTION OF APPROPRIATE SANCTIONS.

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN**

DATE: 03/08/10 TIME: 8:30 A.M. DEPT: E CASE NO: CV086418

PRESIDING: HON. JAMES R. RITCHIE

REPORTER: MARGARET COLLINS

CLERK: SHELLY DIENER

PLAINTIFF: LAVONNE T. SANTA, ET
AL

vs.

DEFENDANT: KIT COLE, ET AL

NATURE OF PROCEEDINGS: MOTION – TO STAY DEPOSITION AND TO QUASH
SUBPOENA [DEFT] KIT COLE [DEFT] KIT COLE INVESTMENT ADVISORY SERVICES,
INC., A CA CORP.

RULING

DEFENDANT’S MOTION TO STAY DEPOSITION AND QUASH SUBPOENA IS MOOT AS THE DEPOSITION HAS ALREADY GONE FORWARD. HOWEVER, DEFENDANT’S MOTION/REQUEST FOR SANCTIONS AGAINST PLAINTIFFS IS GRANTED IN THE AMOUNT OF \$4,405 (9.7 HOURS @ \$450 + \$40 FILING FEE). “[T]HE LAWS OF THE STATE WHERE THE DEPOSITION IS TO BE TAKEN WILL GENERALLY APPLY REGARDING ISSUANCE OF A SUBPOENA, COMPELLING ATTENDANCE, AND SANCTIONS AGAINST THE WITNESS...” (CAL. CIVIL DISCOVERY PRACTICE (CONT.ED.BAR 2009) § 12.9, DISCUSSING CODE CIV. PROC., § 2026.010, SUBD. (c).) IN ALL OTHER RESPECTS, CALIFORNIA LAW GOVERNS DEPOSITIONS. (ID., § 12.11, DISCUSSING § 2026.010, SUBD. (a); SEE ALSO *INTERNATIONAL INS. CO. V. MONTROSE CHEMICAL CORP.* (1991) 231 CAL.APP.3D 1367, 1371.) THEREFORE DEFENDANT IS CORRECT THAT SHE WAS ENTITLED TO 20 DAYS’ NOTICE PURSUANT TO SECTIONS 2025.270, SUBDIVISION (a), AND 1013, SUBDIVISION (a). HER ATTORNEY PROPERLY OBJECTED TO THE DEPOSITION ON THAT GROUND AND ALSO ADVISED PLAINTIFFS’ COUNSEL OF HIS UNAVAILABILITY. HE THEN PROPERLY FILED THIS MOTION. NONETHELESS, PLAINTIFFS PROCEEDED WITH THE DEPOSITION. AS TO PLAINTIFFS’ CLAIM THAT THEY ATTEMPTED TO ACCOMMODATE DEFENDANT’S ATTORNEY, HE WAS UNDER NO OBLIGATION TO APPEAR BY TELEPHONE. HE ALSO INFORMED PLAINTIFFS’ COUNSEL THAT HE WAS UNABLE TO APPEAR BY TELEPHONE. PLAINTIFFS’ COUNSEL WAITED UNTIL AFTER THIS MOTION WAS FILED AND UNTIL THE BUSINESS

DAY BEFORE THE DEPOSITION TO PROPOSE AN ALTERNATIVE DATE. ALTHOUGH PLAINTIFFS CLAIM IT WAS UNREASONABLE FOR DEFENDANT'S ATTORNEY TO CHECK WITH HER REGARDING HER AVAILABILITY, SHE HAS A RIGHT TO ATTEND DEPOSITIONS. (SEE WEIL AND BROWN, CAL. PRACTICE GUIDE: CIVIL PROCEDURE BEFORE TRIAL (TRG 2009) §§8:696-8:697.)

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN**

DATE: 03/08/10 TIME: 8:30 A.M. DEPT: E CASE NO: CV092123

PRESIDING: HON. JAMES R. RITCHIE

REPORTER: MARGARET COLLINS

CLERK: SHELLY DIENER

PLAINTIFF: LINDA JACKSON-
JENKINS

vs.

DEFENDANT: DAWN GREYBOYSE, ET
AL

NATURE OF PROCEEDINGS: 1) HEARING ON DEMURRER – TO PLAINTIFF’S FIRST AMENDED COMPLAINT [DEFT] DAWN GRAYBOYES
2) HEARING ON DEMURRER – TO FIRST AMENDED COMPLAINT [DEFT] MARIN GENERAL HOSPITAL

RULING

THE DEMURRERS TO THE FIRST AMENDED COMPLAINT ARE OVERRULED.

AS TO THE FIRST CAUSE OF ACTION FOR INVASION OF PRIVACY, GIVEN PLAINTIFF’S NEW ALLEGATIONS THAT SHE FELT “EMBARRASSMENT, HUMILIATION AND SHAME THAT EVENTUALLY CAUSED HER TO BURST INTO TEARS” AND THAT THE DISCLOSURE SUBJECTED HER TO “GOSSIP AND RIDICULE AMONG HER CO-WORKERS,” HER COMPLAINT MUST BE READ AS ALLEGING THAT THE DISCLOSURE WAS “SUFFICIENTLY SERIOUS IN... NATURE, SCOPE, AND ACTUAL OR POTENTIAL IMPACT TO CONSTITUTE AN EGREGIOUS BREACH OF THE SOCIAL NORMS UNDERLYING THE PRIVACY RIGHT.” (*HILL V. NATIONAL COLLEGIATE ATHLETIC ASSN.* (1994) 7 CAL.4TH 1, 37.)

BASED UPON THE CONCLUSION ABOVE, PLAINTIFF HAS SUFFICIENTLY ALLEGED OUTRAGEOUS CONDUCT TO SUPPORT THE SECOND CAUSE OF ACTION FOR INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS.

THE UNCERTAINTY ARGUMENTS INVOLVE MATTERS THAT CAN BE DESCRIBED IN DETAIL THROUGH DISCOVERY. ULTIMATELY, PLAINTIFF MUST DESCRIBE THE OFFENSIVE CONDUCT AND ITS EFFECT IN SUFFICIENT

DETAIL TO PROVE HER CLAIMS TO A FACT FINDER OR SURVIVE A SUMMARY DISPOSITION MOTION. HOWEVER, THE AMENDED COMPLAINT IS SUFFICIENT FOR NOW.

PLAINTIFFS' CAUSES OF ACTION ARE NOT BARRED BY WORKERS' COMPENSATION EXCLUSIVITY. (SEE *OPERATING ENGINEERS LOCAL 3 V. JOHNSON* (2003) 110 CAL.APP.4TH 180, 189-191: INVASION OF PRIVACY CLAIM; SEE ALSO *ACCARDI V. SUPERIOR COURT* (1993) 17 CAL.APP.4TH 341, 352-353: OTHER CAUSES OF ACTION BASED UPON SAME FACTS.)

THE COURT ALSO CONCLUDES, AT THIS STAGE, THAT THE ALLEGED CONDUCT IS NOT A "NORMAL PART OF THE EMPLOYMENT RELATIONSHIP" SO AS TO FALL WITHIN THE EXCLUSIVE PROVINCE OF THE WORKERS' COMPENSATION REMEDY. (OPERATING ENGINEERS, SUPRA AT p. 189 + 190)

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN**

DATE: 03/08/10 TIME: 8:30 A.M. DEPT: E CASE NO: CV095755

PRESIDING: HON. JAMES R. RITCHIE

REPORTER: MARGARET COLLINS

CLERK: SHELLY DIENER

PLAINTIFF: SOLSTICE, LLC

vs.

DEFENDANT: GRAHAM KOS, ET AL

NATURE OF PROCEEDINGS: 1) MOTION TO QUASH – SERVICE OF SUMMONS [DEFT] TIM WELLER
2) MOTION TO QUASH – TO QUASH SERVICE OF SUMMONS [DEFT] TIM WOLFF
3) NOTICE OF MOTION – TO DISMISS OR, IN THE ALTERATIVE, TO STAY ACTION ON GROUNDS OF INCONVENIENT FORUM [DEFT] CHAD MORSE

RULING

THE MOTIONS OF TIM WOLFF AND TIM WELLER TO QUASH SERVICE OF SUMMONS ARE GRANTED. PLAINTIFF HAS NOT MET ITS BURDEN OF PROOF BY A PREPONDERANCE OF THE EVIDENCE TO DEMONSTRATE THE DEFENDANTS HAVE SUFFICIENT MINIMUM CONTACTS WITH CALIFORNIA TO JUSTIFY JURISDICTION. CONTRARY TO PLAINTIFF’S ARGUMENTS, THE DECLARATIONS OF WOLFF AND WELLER DO NOT ESTABLISH THAT DEFENDANTS HAVE SUBJECTED THEMSELVES TO SPECIFIC JURISDICTION. THE DECLARATIONS DO NOT SHOW THAT DEFENDANTS PURPOSEFULLY AVAILED THEMSELVES OF FORUM BENEFITS OR THAT THE CONTROVERSY IN THIS CASE IS RELATED TO OR ARISES OUT OF THOSE CONTACTS. PLAINTIFF’S REQUEST FOR DISCOVERY ON THE ISSUE OF JURISDICTION IS DENIED. THE INFORMATION PLAINTIFF HOPES TO OBTAIN WOULD NOT SHOW THAT DEFENDANTS SUBJECTED THEMSELVES TO SPECIFIC JURISDICTION.

UPON THE REQUEST OF THE PARTIES, THE MOTION OF DEFENDANT CHAD MORSE, JOINED BY DEFENDANTS GRAHAM KOS AND SHAY KOS TO DISMISS THE ACTION ON THE GROUND OF INCONVENIENT FORUM IS CONTINUED TO MARCH 29, 2010.

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN**

DATE: 03/08/10 TIME: 8:30 A.M. DEPT: E CASE NO: CV096040

PRESIDING: HON. JAMES R. RITCHIE

REPORTER: MARGARET COLLINS

CLERK: SHELLY DIENER

PETITIONER: CACV OF COLORADO,
LLC

vs.

RESPONDENT: JOHN M. LEIGHTY

NATURE OF PROCEEDINGS: PETITION – TO CONFIRM ARBITRATION AWARD
[PETR] CACV OF COLORADO, LLC

RULING

**THE PETITION TO CONFIRM ARBITRATION AWARD IS DENIED. NO PROOF OF
SERVICE SHOWN.**