

**DEPARTMENT THREE  
JUDGE STEPHEN GIZZI  
707-207-7303  
TENTATIVE RULINGS SCHEDULED FOR  
FRIDAY, JULY 18, 2025**

***The parties may appear via Zoom with the exception of trials, trial management conferences, order for examinations and mandatory settlement conferences. The information for the Zoom meeting is set forth below.***

The tentative ruling shall become the ruling of the court unless a party desiring to be heard contacts the judicial assistant of the department hearing the matter by 4:30 p.m. on the court day preceding the hearing, and further advises that such party has notified the other side of its intention to request a hearing. A party requesting a hearing must notify all parties of the request to be heard by 4:30.

**RACHIEL CARTER v. WALMART STORES, INC., et al.  
Case No. CU24-09405**

WALMART's Demurrer and Motion to Strike

**TENTATIVE RULING**

Defendant WALMART STORES, INC. ("WALMART") demurs to Plaintiff RACHIEL CARTER's complaint alleging false imprisonment. WALMART simultaneously moves to strike the complaint's prayer for punitive damages. Summarized, the complaint alleges the following: Plaintiff shopped at WALMART in Fairfield on March 12, 2023. Plaintiff entered the store with items she wished to return but was not able to return them. Plaintiff purchased additional items during her visit. A WALMART employee grabbed her cart and attempted to keep her from leaving. WALMART security guard employees Defendants MICHAEL HILDEBRANDT ("HILDEBRANDT") and JOSEPH SALVATTO ("SALVATTO") followed her into the parking lot, where they falsely accused her of shoplifting and physically obstructed her path into her car. HILDEBRANDT slammed Plaintiff into the side of her car.

The court has not received opposition to the demurrer or the motion.

**Legal Standard on Demurrer.** "The function of a demurrer is to test the sufficiency of the complaint as a matter of law." (*Holiday Matinee, Inc. v. Rambus, Inc.* (2004) 118 Cal.App.4th 1413, 1420.) A complaint is sufficient if it alleges ultimate rather than evidentiary facts, but the plaintiff must set forth the essential facts of his or her case "with reasonable precision and with particularity sufficient to acquaint [the] defendant

with the nature, source and extent” of the plaintiff’s claim. (*Doheny Park Terrace Homeowners Assn., Inc. v. Truck Ins. Exchange* (2005) 132 Cal.App.4th 1076, 1099.) Legal conclusions are insufficient. (*Id.* at 1098–1099; *Doe v. City of Los Angeles* (2007) 42 Cal.4th 531, 551, fn. 5 [ultimate facts sufficient].) The Court “assume[s] the truth of the allegations in the complaint, but do[es] 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.)

**Sufficiency of Pleading.** The elements of false imprisonment are (1) the nonconsensual, intentional confinement of a person, (2) without lawful privilege, and (3) for an appreciable period of time, however brief. (*Lyons v. Fire Ins. Exchange* (2008) 161 Cal.App.4th 880, 888.) Relevantly to this case, Penal Code section 490.5, subdivision (f) codifies the “shopkeeper’s privilege:” a merchant may detain a person for a reasonable time to conduct an investigation in reasonable manner if the merchant has probable cause to believe the person is unlawfully taking or attempting to take merchandise and the merchant may use nondeadly force as is reasonable to prevent the person’s escape, prevent the loss of merchandise, and/or protect the merchant’s safety.

Plaintiff alleges her intentional, nonconsensual confinement for appreciable (if brief) times twice, first where she alleges that a WALMART employee grabbed her cart on her way out of the store and second where she alleges that HILDEBRANDT and SALVATTO blocked her way into her car. Plaintiff also alleges that the confinement was not privileged in that she alleges that accusations of shoplifting were baseless. WALMART’s arguments to what the people who detained Plaintiff saw and believed go beyond the face of the complaint and are not appropriate on demurrer. The face of the complaint does not reveal probable cause supporting the shopkeeper’s privilege.

The face of the complaint also does not support that HILDEBRANDT and SALVATTO’s investigation was conducted in a “reasonable manner.” Plaintiff alleges that HILDEBRANDT “violently slammed [Plaintiff’s] back into the side of [Plaintiff’s] car while grabbing [Plaintiff] roughly.” (Complaint at Attachment p. 2.) Nothing in the complaint indicates that Plaintiff offered any resistance that would have necessitated shoving her into the side of her vehicle.

Plaintiff sufficiently states false imprisonment.

**Motion to Strike.** Code of Civil Procedure section 436, subdivision (a) permits a court to strike out any irrelevant, false, or improper matter inserted in any pleading, upon a motion or in its discretion. Irrelevant matters are those not essential to the statement of a claim or defense or not pertinent to or supported by an otherwise sufficient claim or defense and demands for relief not supported by the allegations. (Code Civ. Proc. § 431.10.) “The grounds for a motion to strike shall appear on the face of the challenged pleading or from any matter of which the court is required to take judicial notice;” therefore, a motion to strike may not be based upon extrinsic evidence such as a declaration. (Code Civ. Proc. § 437, subd. (a).)

Civil Code section 3294, subdivision (a) provides that punitive damages are only available in actions not arising from breach of contract if is “proven by clear and convincing evidence that the defendant has been guilty of oppression, fraud, or malice.” This means that a plaintiff’s pleading asking for punitive damages must plead facts to support a finding of oppression, fraud, or malice. (*Grieves v. Superior Court* (1984) 157 Cal.App.3d 159, 166.) “Malice” means conduct intended to cause injury or despicable conduct carried on with a willful and conscious disregard of the rights or safety of others; “oppression” means despicable conduct that subjects a person to cruel and unjust hardship in conscious disregard of that person’s rights; and “fraud” means intentional misrepresentation, deceit, or concealment of a material fact with intention to cause injury. (Civ. Code § 3294, subd. (c).) “Despicable” conduct refers to that which is “base, vile, or contemptible” and is something more than simple willful and conscious disregard for others. (*College Hospital Inc. v. Superior Court* (1994) 8 Cal.4th 704, 725.)

An employer shall only be liable for punitive damages based on its employee’s acts where the employer had advance knowledge of the employee’s unfitness and employed him with a conscious disregard for the rights and safety of others or authorized or ratified the employee’s wrongful conduct. (Civ. Code, § 3294, subd. (b).) A corporate employer can be held liable for punitive damages under those rules if the advance knowledge or authorization or ratification was on the part of an officer, director, or managing agent. (*Ibid.*) Ratification generally occurs where the employer demonstrates an intent to adopt or approve behavior. (*College Hospital, supra*, 8 Cal.4th at p. 726.) Ratification in the corporate context requires actual knowledge of the conduct and its outrageous nature. (*Ibid.*) A plaintiff need not necessarily establish that any particular committee or officer of the corporation acted on a particular date with malice, though; it is enough if the evidence permits a clear and convincing inference that authorized persons within the corporate hierarchy acted despicably. (*Romo v. Ford Motor Co.* (2002) 99 Cal.App.4th 1115, 1140 (*Romo*), disapproved on other grounds in *People v. Ault* (2004) 33 Cal.4th 1250, 1272 at fn. 15.) That is, a plaintiff may satisfy the “managing agent” requirement in the corporate context through evidence, even circumstantial evidence, showing information in the possession of the corporation and the structure of management decision-making that permits an inference that the information in fact moved upward to a point where corporate policy was formulated. (*Id.* at p. 1141.)

“It is too well settled to need the citation of authorities, that exemplary damages may be given for a wanton, malicious and unprovoked assault upon the person.” (*Wade v. Thayer* (1871) 40 Cal. 578, 585.)

Plaintiff alleges unprovoked assault upon her person, which is malicious and/or oppressive conduct. However, Plaintiff does not allege WALMART’s advance knowledge of its employees’ unfitness or ratification of their acts.

**Leave to Amend.** Leave to amend is appropriate where pleading deficiencies are amenable to correction. (*Vaccaro v. Kaiman* (1998) 63 Cal.App.4th 761, 768.) It is the pleading party's burden to show the trial court that a reasonable possibility exists that amendment can cure identified defects in that party's pleading. (*Murphy v. Twitter, Inc.* (2018) 60 Cal.App.5th 12, 42.) Plaintiff has not filed opposition and so does not show a reasonable possibility of corrective amendment of her punitive damages claim.

**Conclusion.** WALMART's unopposed demurrer is overruled. WALMART's unopposed motion to strike is granted without leave to amend.

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**LUIS R. GOMEZ v. RAJ KUMAR SHARMA and SUNRISE ORCHARDS**  
**Case No. FCS055666**

GOMEZ's Motion to Compel SHARMA's Further Responses to Special Interrogatories in Case FCS059299

**TENTATIVE RULING**

LUIS R. GOMEZ's ("GOMEZ") motion to compel RAJ KUMAR SHARMA's ("SHARMA") further responses to special interrogatories served February 2, 2025 is denied. GOMEZ made insufficient efforts to meet and confer. GOMEZ did not attempt to meet and confer regarding SHARMA's supplemental discovery responses served March 18, 2025 until May 5, 2025, the day before GOMEZ's deadline for filing the instant motion to compel further responses. This did not leave sufficient time for a good faith effort to informally resolve the parties' dispute.

The court finds the circumstances weigh against the imposition of sanctions.

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