



IN THE SUPERIOR COURT OF CALIFORNIA
COUNTY OF FRESNO
CIVIL UNLIMITED DEPARTMENT 403

Frank Mejia
Plaintiff/Petitioner,
v.
Safeway Inc.
Defendant/Respondent.

Case No. 24CECG05067
Event Date: 10/01/2026
Event Type: Motion
Mtn/OSC: Summary Judgment
Add'l Info:
Judge: Steven Crass
Clerk: Sonia Nunez
Reporter: Not Reported

Minutes

Update Scheduled Events - 10/01/2026 Motion in Department 403
Event Result: Not Heard - Orders Made

Appearances:

There are no appearances.

Nature of Proceedings:

No Oral Argument requested by any party.

Tentative Ruling on the Motion for Summary Judgment becomes the order of the court.
Pursuant to CRC 3.1312(a) and CCP §1019.5(a), no further order is necessary. Service by the clerk will constitute notice of the order.
(See attached copy of the Tentative Ruling.)

10/01/2026 Ruling - Tentative Filed By - Clerk.

Certificate of mailing/electronic service attached.

(03)

Tentative Ruling

Re: **Mejia v. Safeway**
Case No. 24CECG05067

Hearing Date: October 1, 2026 (Dept. 403)

Motion: Defendant Safeway's Motion for Summary Judgment, or in the Alternative, Summary Adjudication

Tentative Ruling:

To grant defendant Safeway's motion for summary judgment as to the entire complaint.

Explanation:

Plaintiff has alleged claims for (1) discrimination in violation of FEHA, (2) harassment in violation of FEHA, (2) retaliation in violation of FEHA, and (4) wrongful termination in violation of public policy. He has alleged that defendant Safeway terminated him on April 15, 2022 in retaliation for his requests for accommodations for his disability and for reporting discrimination and harassment. He also alleges that he experienced discrimination and harassment at the hands of defendant based on his age (over 40 years old), disability, medical condition, race, and association with a protected class.

However, defendant claims that plaintiff was terminated from his employment from Safeway after he allegedly violated Safeway's policy against workplace violence, and not due to any motive to discriminate against him, harass him, or retaliate against him. Thus, defendant contends that it had a legitimate, non-discriminatory reason for terminating plaintiff and it cannot be held liable for illegally harassing plaintiff, discriminating against him, or retaliating against him. Consequently, defendant concludes that the court should grant summary judgment in its favor.

"[I]f nondiscriminatory, [the employer's] true reasons [for terminating an employee] need not necessarily have been wise or correct. While the objective soundness of an employer's proffered reasons supports their credibility..., the ultimate issue is simply whether the employer acted with a motive to discriminate illegally. Thus, 'legitimate' reasons in this context are reasons that are facially unrelated to prohibited bias, and which, if true, would thus preclude a finding of discrimination." (*Guz v. Bechtel Nat. Inc.* (2000) 24 Cal.4th 317, 358, citations, italics, and footnote omitted.)

Thus, where the employer provides admissible evidence that it had legitimate, good-faith reasons for terminating an employee that are unrelated to discrimination, the employer is entitled to summary judgment of the employee's discrimination claim unless the employee comes forward with admissible evidence that the employer's proffered reasons are merely a pretext for discrimination. (*Id.* at pp. 360-361.)

"Moreover, an inference of intentional discrimination cannot be drawn solely from evidence, if any, that the company lied about its reasons. The pertinent statutes do not

prohibit lying, they prohibit discrimination. Proof that the employer's proffered reasons are unworthy of credence may 'considerably assist' a circumstantial case of discrimination, because it suggests the employer had cause to hide its true reasons. Still, there must be evidence supporting a rational inference that intentional discrimination, on grounds prohibited by the statute, was the true cause of the employer's actions. Accordingly, the great weight of federal and California authority holds that an employer is entitled to summary judgment if, considering the employer's innocent explanation for its actions, the evidence as a whole is insufficient to permit a rational inference that the employer's actual motive was discriminatory." (*Ibid*, citations omitted.)

Here, Safeway has met its burden of showing that it terminated plaintiff because he violated its policy against workplace violence, not due to any motive to discriminate against him, harass him, or retaliate against him. Defendant's anti-workplace violence policy states that, "Threats of violence, threatening behavior or acts of violence, whether direct or indirect, are strictly prohibited. Such conduct is prohibited even if it is joking in nature." (Defendant's Undisputed Fact No. 3.)

Defendant alleges that it made the decision to fire plaintiff after he got into an altercation with a co-employee, Robert Lujan, while they were working at the Fowler Avenue store on March 16, 2022. (Defendant's UMF Nos. 4, 5.) Lujan claimed that plaintiff accused him of "talking shit" about him and told him to "back your shit up", then shoved him with both hands into a cooler. (UMF No. 9.) Plaintiff denied that he threatened or shoved Lujan, and simply asked him to go back to his aisle. (UMF No. 13.) Several other witnesses stated that they saw or heard plaintiff make loud or threatening statements to Lujan, but they did not see him shove Lujan. (UMF Nos. 10-12.) Defendant investigated the incident, and ultimately concluded that plaintiff had violated the policy against workplace violence. Defendant then terminated plaintiff. (UMF Nos. 14-20.) Plaintiff filed a grievance with his union about the decision to terminate him, but the union ultimately concluded that defendant's decision was supported by just cause. (UMF Nos. 21-23.) Defendant's investigator and the District Manager who made the decision to terminate plaintiff have denied that their actions were motivated by his age, race, disability, medical condition, or association with a protected class, or that they ever discriminated against, harassed, or retaliated against plaintiff. (UMF Nos. 16-17, 19, 25, 26, 30, 35, 45.)¹

Thus, defendant has met its burden of showing that plaintiff cannot prevail on his claims for discrimination, harassment, and retaliation because defendant had a legitimate reason for terminating him. As a result, the burden shifts to plaintiff to present admissible evidence that raises at least an inference that defendant's decision was actually motivated by illegal discrimination or retaliation. (*Guz v. Bechtel, supra*, at pp. 360-361.)

Plaintiff contends in his opposition² that there are triable issues of material fact with regard to some of his claims because there are disputed facts about whether he violated

¹ Plaintiff objects to several pieces of evidence submitted by defendant. The court intends to overrule the objections in their entirety.

² Defendant objects to plaintiff's opposition, claiming that it was filed late and that plaintiff failed to serve the opposition. Defendant asks the court to disregard the entire opposition. However, defendant has filed a reply that also addresses the merits of the opposition, so it has waived any

the policy against workplace violence and whether defendant conducted a complete and unbiased investigation of the incident. He denies that he threatened or shoved Lujan, and that the other witnesses did not see any physical contact. He claims that Safeway discounted his version of the incident and credited Lujan's version. He contends that a jury could find that defendant has not proved that he violated the workplace violence policy, and that defendant conducted a biased investigation of the incident in order to fire him.

However, regardless of whether defendant's decision to fire him was correct or wise, it is not liable as long as the decision to fire him was not a pretext for illegal discrimination, harassment, or retaliation. (*Guz, supra*, at pp. 358-361.) Here, plaintiff has not pointed to any admissible evidence suggesting that the investigation was biased or that the decision to fire him was motivated a desire to discriminate against him, harass him, or retaliate against him. At most, plaintiff has shown that Safeway believed Lujan's version of the incident rather than plaintiff's version. Yet the fact that Safeway believed Lujan over plaintiff does not suggest an inference that Safeway acted out of an illegal desire to discriminate, harass, or retaliate against plaintiff. It simply shows that Safeway made a management decision consistent with its policy against workplace violence. Employers are allowed to terminate employees whom they conclude have violated their policies, even if the employer's decision may be incorrect, as long as they are not motivated by illegal discrimination or retaliation. Therefore, regardless of whether plaintiff actually violated the defendant's policy against workplace violence, plaintiff has not met his burden of showing that defendant terminated him for illegal reasons.

Plaintiff argues that defendant's decision to terminate him was motivated by his age, as the Store Director, Richard Oliva, once made a comment to him that he should work in the deli because it would be easier for him because of his age. (Plaintiff's decl., at ¶ 11.) He also points out that it was Oliva who reported the incident to management and initiated the investigation that led to plaintiff's firing. (*Id.* at ¶¶ 7, 9, 10.) He claims that Oliva's age-related remark and his involvement in the investigation show that the decision to terminate him was based on a motive to discriminate against him based on his age.

However, plaintiff's evidence fails to raise a triable issue regarding his age discrimination claim. First, there does not appear to be any connection between Oliva's alleged comment about his age and his later termination. Plaintiff has not alleged that the comment was made soon before he was terminated, or that Oliva appeared to be biased against him due to his age. The comment itself seems to be relatively benign rather than harassing or discriminatory. Plaintiff never alleges that he believed the comment was intended to be harassing, or that he was offended by it. He also does not allege that Oliva took any adverse action against him after making the remark. Also, plaintiff himself admits that Oliva liked him and wanted him to return to work even after the incident with Lujan, as he regarded him as a good worker. (*Id.* at ¶ 10.) Thus, plaintiff's allegation that Oliva once made an ageist comment to him does not raise a triable issue of fact with regard to whether he was discriminated against, harassed, or retaliated against due to his age. Plaintiff also admitted in his deposition that, other than the one comment by Olivas, he could not recall any instance of any member of Safeway or Vons

objections due to the lateness of the opposition or the failure to serve it. Therefore, the court intends to consider plaintiff's opposition despite its defects.

management discriminating against him due to his age. (UMF No. 28, citing plaintiff's depo., at pp. 101:7 - 102:9.) Thus, plaintiff has not raised a triable issue of material fact with regard to his age discrimination and harassment claims.

Also, while plaintiff contends that there is a triable issue of fact with regard to the harassment claim, he admitted that he never told anyone in Safeway's management that he was being harassed by Lujan or anyone else. (UMF Nos. 41-42, citing plaintiff's depo. at pp. 49:20-50:9; 51:21-52:1.) Thus, plaintiff has not shown that there is a triable issue of fact with regard to whether Safeway can be held liable for discrimination or harassment based on age. Therefore, the court intends to grant summary adjudication of plaintiff's claims for discrimination and harassment based on age.

Furthermore, plaintiff admitted in his responses to requests for admissions that defendant did not harass him based on race, so he cannot prevail on his racial harassment claim. (UMF No. 26, citing plaintiff's response to RFA No. 4.) Defendant has denied that its decision to terminate him was based on any desire to discriminate against him based on his race. (UMF Nos. 16-19.) Plaintiff has not pointed to any evidence showing a triable issue of fact with regard to whether defendant discriminated against him based on race. Nor could he do so, since he has already admitted that defendant did not racially discriminate against him. Therefore, the court intends to summarily adjudicate the claim for discrimination based on race.

Plaintiff has also alleged that Safeway discriminated him based on his disability or medical condition, which is apparently a reference to the fact that he has PTSD. (UMF No. 33.) However, plaintiff has now admitted that defendant did not discriminate against him based on his disability or medical condition. (UMF No. 25, citing plaintiff's depo., pp. 96:10 - 99:7, and plaintiff's response to RFA No. 2.) Thus, defendant has met its burden of showing that plaintiff cannot prevail on his claims for discrimination based on disability or medical condition.

Plaintiff's opposition fails to raise any triable issue of material fact with regard to the disability or medical condition claims. While plaintiff claims that he told Oliva that he had PTSD years before he was fired, he has not pointed to any evidence that would tend to show that defendant's decision to terminate him was motivated by a desire to discriminate against him for having PTSD. He has not even shown that the people who investigated the incident and made the decision to terminate him, Jim Egan and Carlos Arevalo, were aware of the fact that he had PTSD. Egan and Arevalo have denied that they knew of plaintiff's disability, or that it was a factor when they made the decision to fire him. (UMF Nos. 16-19, 34-35.) They claim that their decision was solely based on plaintiff's violation of the workplace violence policy. (UMF Nos. 18, 35.) Plaintiff has not pointed to any disputed facts regarding their motivations for terminating him. Therefore, the court intends to grant summary adjudication of the disability and medical condition discrimination claims.

Next, to the extent that plaintiff has alleged that defendant denied his request for a reasonable accommodation of his disability, defendant has presented evidence showing that plaintiff never requested an accommodation for his disability. (UMF Nos. 17, 19, 36.) In fact, Egan and Arevalo were not even aware that plaintiff had a disability. (*Ibid.*) Egan and Arevalo also deny that their decision to fire plaintiff was related to his disability, and contend that they only fired him for violating the workplace violence policy. (UMF No. 18.) Plaintiff himself admitted in his deposition that he never requested

an accommodation for his disability. (UMF No. 36, citing plaintiff's depo., at pp. 71-:19 - 72:16.) Plaintiff has not shown that there are any disputed facts with regard to whether he ever requested an accommodation for his disability. Nor could he do so, since he admitted in his deposition testimony that he did not make any such request. As a result, the court intends to grant summary adjudication of plaintiff's claim for failure to accommodate his disability.

Likewise, the court intends to grant summary adjudication of plaintiff's claim that defendant subjected him to impermissible, non-job-related questions. First, it is not clear that plaintiff can even state a valid claim for asking "impermissible, non-job-related questions." In any event, plaintiff admitted in his deposition that his claim was based on his contention that defendant did not allow him to tell his side of the story and believed Lujan's version of events. (UMF No. 37, citing plaintiff's depo., at pp. 113:2 - 114:12.) The evidence shows that defendant did ask plaintiff for his side of the story and took his statement, and that plaintiff declined to provide a written statement about the incident. (UMF Nos. 7, 13.) However, there is no evidence that defendant asked plaintiff any non-job-related questions that might have violated his rights. Plaintiff has not provided any evidence that would tend to show that there is a triable issue of material fact with regard to the claim. Therefore, the court intends to grant summary adjudication of the impermissible question claim.

Defendant has also shown that it is entitled to summary adjudication of plaintiff's claim that he was harassed and discriminated against based on his association with a protected class. Again, defendant's decision to fire plaintiff was based on the conclusion that he violated defendant's policy against workplace violence, not because he is associated with a protected class. (UMF Nos. 16-19, 30-32, 35-36, 38-39, 41-45.) Plaintiff has not shown that there are any triable issues of material fact with regard to whether he was subjected to any harassment or discrimination based on his association with a protected class. Therefore, the court intends to grant summary adjudication of the claims for harassment and discrimination based on association with a protected class.

Next, with regard to the second cause of action for harassment based on disability, defendant has shown that it is entitled to summary adjudication because plaintiff admitted that he was not harassed based on his disability. (UMF No. 38, citing plaintiff's response to RFA No. 7.) Plaintiff has not submitted any evidence that would raise a triable issue of act with regard to the disability claim. Nor could he do so in light of his response to the request for admission. Therefore, the court intends to grant summary adjudication of the disability harassment claim.

Likewise, defendant has shown that it is entitled to summary adjudication of the claim for harassment based on race, as plaintiff admitted in his responses to requests for admissions that he was not harassed based on race. (UMF No. 39, citing plaintiff's response to RFA No. 9.) Plaintiff has not raised any triable issues of material fact with regard to the racial harassment claim. Therefore, the court intends to grant summary adjudication of the race-based harassment claim.

The court will also grant summary adjudication of plaintiff's third cause of action, which alleges that he was retaliated against for requesting accommodations for his disability and for reporting the discriminatory treatment. Again, defendant has met its burden of showing that plaintiff admitted that he never made any complaints about age, race, disability, or medical condition discrimination, and defendant never retaliated

against him for making any such complaints. (UMF No. 45.) Defendant's investigator and District Manager were not aware of any complaints plaintiff might have made about discrimination. (UMF Nos. 17, 19.) The decision to terminate him was based on their conclusion that he violated the workplace violence policy, and was not an attempt to retaliate against him. (UMF Nos. 16, 18, 44.) Plaintiff has not raised any disputed issues of fact with regard to whether defendant retaliated against him for complaining about discrimination or requesting an accommodation. Therefore, the court intends to grant summary adjudication of the retaliation cause of action.

Finally, the court intends to grant summary adjudication of the fourth cause of action for wrongful termination in violation of public policy. First, the fourth cause of action is entirely derivative of the first three causes of action, since it alleges that plaintiff's termination violated fundamental public policies against discrimination, harassment, and retaliation embodied in FEHA. (Complaint, ¶ 2.) Since plaintiff cannot prevail on his other causes of action, his wrongful termination claim fails as well. (*Hodges v. Cedars-Sinai Medical Center* (2023) 91 Cal.App.5th 894, 915.)

In addition, the evidence shows that plaintiff was terminated for violating defendant's policy against workplace violence rather than for any illegal or improper reason such as discrimination or retaliation. Plaintiff has not pointed to any evidence that the termination was based on an improper motive. Therefore, plaintiff cannot show that his termination violated public policy.

Lastly, the fourth cause of action is barred by the statute of limitations. The two-year statute of limitations applies to plaintiff's common law wrongful termination claim. (Code Civ. Proc., § 335.1; *Prue v. Brady Co./San Diego, Inc.* (2015) 242 Cal.App.4th 1367, 1382.) Here, plaintiff was fired on April 8, 2022. (UMF No. 20.) However, he did not file his complaint until November 25, 2024, more than two years after he was fired. Therefore, his fourth cause of action is time-barred, and the court intends to grant summary adjudication of his wrongful termination claim.

Pursuant to California Rules of Court, rule 3.1312(a), and Code of Civil Procedure section 1019.5, subdivision (a), no further written order is necessary. The minute order adopting this tentative ruling will serve as the order of the court and service by the clerk will constitute notice of the order.

Tentative Ruling

Issued By: SMC **on** September 30, 2026.
(Judge's initials) (Date)

Tentative Rulings for October 1, 2026
Department 403

For any matter where an oral argument is requested and any party to the hearing desires a remote appearance, such request must be timely submitted to and approved by the hearing judge. In this department, the remote appearance will be conducted through Zoom. If approved, please provide the department's clerk a correct email address. (CRC 3.672, Fresno Sup.C. Local Rule 1.1.19)

There are no tentative rulings for the following cases. The hearing will go forward on these matters. If a person is under a court order to appear, he/she must do so. Otherwise, parties should appear unless they have notified the court that they will submit the matter without an appearance. (See California Rules of Court, rule 3.1304(c).) *The above rule also applies to cases listed in this "must appear" section.*

26CU01725 *Cheney v. Sangha* (Also see Tentative Ruling below.)

The court has continued the following cases. The deadlines for opposition and reply papers will remain the same as for the original hearing date.

(Tentative Rulings begin at the next page)

Tentative Rulings for Department 403

Begin at the next page