

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF TUOLUMNE
TENTATIVE RULINGS- September 10, 2026**

HEARING DATE: September 11, 2026
HEARING TIME: 8:30 a.m.
DEPT.: Two (2)
JUDICIAL OFFICER: Honorable Sarah J. Carrillo

Case No.: CV67334
Case Title: Thomas Knowlton v. Henry Speeth
Case Type: Personal Injury/Vehicle collision
Hearing Type: Motion to Compel IME

This is a personal injury action arising out of a vehicle accident. This matter was originally set for a hearing on defendant's Motion to Compel and a CMC on August 28, 2026, wherein plaintiff's attorney appeared, but defendant's attorney did not. This matter was continued to September 11, 2026, for further hearing.

Moving Argument

The defendant filed a motion to compel plaintiff's attendance at an independent medical examination with a neuropsychologist. Defendant's motion seeks an order that plaintiff appear at the examination, that the exchange of testing data be directly between defendant's expert neuropsychologist and plaintiff's neuropsychological expert and any audio recording of the IME be limited to the clinical interview and not encompass any recording of the actual test administration phase.

Opposing Argument

Plaintiff opposes the motion to compel arguing that the plaintiff be allowed to audio record the examination and that the raw data be provided to counsel. Plaintiff's position is that a standard protective order is sufficient to protect the exchange of data materials and requests monetary sanctions against defense counsel pursuant to Code of Civil Procedure section 2032.220.

Reply Argument

Defense contends the court has wide discretion under *Randy's Trucking, Inc. v. Superior Court* (2023) 91 C.A.5th 818 to order that raw data be exchanged between licensed experts and limit the audio recording.

Appearance at the Neuropsychological Exam and Audio Recording by Plaintiff

The parties agree plaintiff will undergo a neurological examination but disagree regarding plaintiff's ability to audio record the examination. Defendant requests the audio recording of the IME be limited to the clinical interview and not encompass any recording of the actual test administration phase.

CCP section 2032.530(a) provides that the "examiner and examinee shall have the right to record a mental examination by audio technology." *Carpenter v. Superior Court* (2006) 141 C.A. 4th 249, 271. Further, the Legislature did not impose restrictions on the audio recording and therefore plaintiff has an express statutory right to record the entire examination.

The Court **GRANTS** the request and orders plaintiff appear at the neurological examination, time and date to be determined by the parties.

The Court **DENIES** the motion that the audio recording be limited to the clinical interview and not encompass any recording of the actual test administration.

Exchange of Testing Data

Defendant seeks a court order that the exchange of testing data be directly between plaintiff and defendant's licensed neurological experts and not to plaintiff's counsel. Defendant argues a standard protective order is insufficient because the test is dependent on the examinee not having access to what the test measures or how it detects noncredible performance. Defendant further argues that providing raw data to plaintiff's counsel will create several harms in that counsel could further disseminate the material, remember details about the test that could benefit future clients, or allow other unlicensed individuals access to the data.

The language of Code of Civil Procedure section 2032.610(a)(1) provides that a plaintiff submitting to a mental examination has the right to demand the defendant deliver "a copy of a detailed written report setting out the history, examinations, findings, including the results of all tests made, diagnoses, prognoses, and conclusions of examinations." Additionally, *Randy's Trucking, Inc. v. Superior Court* (2023) 91 C.A. 5th 818, dealt with very similar facts and held the superior court did not abuse its discretion in compelling the disclosure of raw testing data pursuant to a protective order. The appellate court also rejected the argument that the disclosure should be made only to each side's

selected expert, given that the attorney must “possess more than a second-hand understanding of the information being scrutinized.” (Id. at p. 838.)

Randy’s Trucking also made it clear the court has discretion regarding ordering the exchange of the raw data to be provided directly to the attorneys and in exercising such discretion, the record before the court should set forth the legitimate reasons plaintiff needs the raw data. The court does not find sufficient information in the record to allow it to exercise its discretion. **HEARING REQUIRED.** Counsel should be prepared to address these issues at the hearing.

Sanctions

Plaintiff seeks sanctions against Defendant pursuant to Code of Civil Procedure section 2032.250 of \$2,500 for the amount of counsel time responding to the motion. The code requires imposition of monetary sanctions unless the court finds that the one subject to the sanction acted with substantial justification or that other circumstances make imposition of the sanction order unjust.

Plaintiff has not yet created a record outlining his legitimate need for the raw data and therefore defendant appears to have acted with substantial justification in filing the motion.

The motion is **DENIED.**

Case No.: CV68318

Case Title: Denise Renee Cargill v. Wal-Mart Associates Inc. et al

Case Type: Hostile workplace action/FEHA

Hearing Type: Demurrer

The below is from the August 28, 2026, tentative ruling posted on the court’s website. This matter was continued to September 11, 2026, because plaintiff’s attorney was not present and the matter was also on for a Case Management Conference.

This is a “hostile” workplace action. Before the Court this day is a demurrer to plaintiff’s fifth cause of action for harassment under FEHA.

Under the FEHA, an employer is prohibited from harassing an employee based on a protected characteristic. See Govt. Code §12940. Unlike discrimination claims, “harassment often does not involve any official exercise of delegated power on behalf of the employer,” but rather “focuses on situations in which the social environment of the workplace becomes intolerable because the harassment (whether verbal, physical, or visual) communicates an offensive message to the harassed employee.” *Roby v. McKesson Corp.* (2009) 47 Cal.4th 686, 706. To prevail on a harassment claim based

on a hostile work environment, the plaintiff must show: (1) she is a member of a protected class; (2) she was subjected to unwelcome harassment; (3) the harassment was based on her protected status; (4) the harassment unreasonably interfered with her work performance by creating an intimidating, hostile, or offensive work environment; and (5) defendants are liable for the harassment. The conduct must be severe enough or sufficiently pervasive to alter the conditions of employment and create a work environment that qualifies as hostile or abusive to employees. It must be more than annoying, and it cannot be occasional, isolated, sporadic, or trivial. However, a single incident of harassing conduct is sufficient to create a triable issue “if the conduct has unreasonably interfered with the plaintiff’s work performance or created an intimidating, hostile, or offensive working environment.” Govt. Code §12923(b); in accord, *Alexander v. Community Hospital of Long Beach* (2020) 46 Cal.App.5th 238; *Ortiz v. Dameron Hospital Assn.* (2019) 37 Cal.App.5th 568, 581; *Cornell v. Berkeley Tennis Club* (2017) 18 Cal.App.5th 908, 940.

On a demurrer, the Court is obliged to accept as true all adequately pled facts, even if those facts might be subject to differing interpretations by the ultimate trier of fact. Plaintiff avers in pertinent part that defendant(s) repeatedly pulled away or moved plaintiff’s chair while she was working when she was authorized to have a chair as an accommodation. Plaintiff avers that she was injured on the job, required surgery, and ultimately some accommodation. Though her knee/back pain were arguably distinct from the injuries subsumed within the workers compensation claim, it was apparently known amongst the supervisors that plaintiff needed a chair from time to time. Given that she was assigned to the “self-check” and “receipt checker” positions, the question is why was the stool/chair repeatedly moved away from plaintiff. There may be a valid business reason, but defendant will need to offer such reason in opposition to the claim by filing an Answer to the Complaint.

DEMURRER OVERRULED. DEFENDANT TO ANSWER IN 10 DAYS.