

**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SAN DIEGO**

MINUTE ORDER

DATE: 10/17/2022

TIME: 09:59:00 AM

DEPT:

JUDICIAL OFFICER PRESIDING: Ronald F. Frazier

CLERK: Sarah Doski

REPORTER/ERM:

BAILIFF/COURT ATTENDANT:

CASE NO: **37-2019-00032336-CU-OE-CTL** CASE INIT.DATE: 06/25/2019

CASE TITLE: **MAAS vs Mckinnon Broadcasting Co KUSI-TV 51 [IMAGED]**

CASE CATEGORY: Civil - Unlimited CASE TYPE: Other employment

APPEARANCES

The Court, having taken the above-entitled matter under submission on 10/14/22 and having fully considered the arguments of all parties, both written and oral, as well as the evidence presented, now rules as follows:

Defendant McKinnon Broadcasting Company's Motion for Summary Judgment, or in the Alternative, Summary Adjudication is DENIED. (ROA 249.)

As to the first cause of action for failure to provide equal pay (Lab. Code § 1197.5(a)), the court finds Plaintiff has established a prima facie case (Issue No. 1).

In addition, the court finds Defendant has not met its initial burden of production as to whether the pay inequity was for legitimate business reasons unrelated to gender (Issue No. 2). Plaintiff objected that many of the separate facts offered by Defendant were not material to this issue, and the court agrees. In the alternative, the court finds there are material issues of triable fact as to whether the pay differential was based on a "bone fide factor other than sex." (Lab. Code § 1197.5(a)(1)(D).) (Issue No. 2.) See Plaintiff's Response to Separate Statement at ¶¶ 155, 158-159, 161, 165-166, 175, 177, 205, 286; Plaintiff's Additional Material Facts at ¶¶ 2-25, 27-37, 41-46.)

Plaintiff attempts to assert claims for both age and gender discrimination in her second cause of action.

As to the gender discrimination claim in the second cause of action (Issue No. 3), the court finds there are material issues of triable fact as to whether Defendant had legitimate non-discriminatory reasons for its actions. (Pltf. Resp. Stmt. at ¶¶ 293-296, 298-299, 302-303, 307 and Pltf. Add'l Facts at ¶¶ 2-25, 27-32.)

As to the age discrimination claim in the second cause of action (Issue No. 4), the court finds there are material issues of triable fact as to whether Defendant had legitimate non-discriminatory reasons for its actions. (Pltf. Resp. Stmt. at ¶¶ 313-314, 316, 318-319, 321-322, 325-326, 330 and Pltf. Add'l Facts at ¶¶ 2-25, 27-32.)

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As to the third cause of action for failure to prevent discrimination (Issue No. 5), the court finds there are material issues of triable fact on this cause of action. (Pltf. Resp. Stmt. at ¶¶ 337-338, 343, 345-346, 349-350, 354 and Pltf. Add'l Facts at ¶¶ 2-25, 27-32.)

As to the fourth, fifth, and sixth causes of action for retaliation (Issue No. 6), the court finds Plaintiff has established a prima facie case.

Defendant's requests for judicial notice are granted. (ROA 260.)

Defendant McKinnon Broadcasting Company's Motion to Compel Compliance with Plaintiff's Responses to Requests for Production of Documents is DENIED. (ROA 226.)

At the outset, Defendant failed to submit a separate statement in support of this motion, as required by court rules. (Cal. R. Court, rule 3.1345(a)(3).) As a result of this procedural defect, it is not clear to the court which requests for production are even in dispute. The motion is denied for failure to comply with procedural requirements.

Additionally and in the alternative, it appears the basis of the dispute is that Defendant believes Plaintiff has not produced all responsive documents, while Plaintiff has stated that she has produced all responsive documents. The court has no way of determining what is or is not in Plaintiff's possession on a discovery motion. Defendant has remedies in the event it can prove Plaintiff's verified responses are not truthful.

Defendant's Motion to Compel Production of Documents Pursuant to Deposition Subpoena to Anna Laurel is DENIED. (ROA 239.)

Plaintiff asserts the motion is untimely. Anna Laurel's deposition was completed on December 8, 2021 and this motion was not filed until May 26, 2022.

Defendant asserts it was required to "seek permission" from this court before filing a motion to compel against Ms. Laurel. This is not correct. Per Department 65 rules, an informal discovery conference (IDC) is not required prior to filing a motion to compel compliance with a subpoena. (Dept. 65 Policies and Procedures at ¶ 4.)

Even where an IDC is required by Department 65 rules, "the deadline to file a discovery motion is tolled from the date of service of the notice of the IDC (as long as the deadline has not yet expired) through five court days after the date of completion of the IDC." (Dept. 65 Policies and Procedures at ¶ 4.) Defendant did not include copies of its IDC notices in its papers.

Defendant asserts the court granted Defendant an extension to file this motion. None of the cited minute orders reflect this. (See December 21, 2021, February 25, 2022, and April 5, 2022 minute orders.)

The court concludes the motion was not timely filed.



Judge Ronald F. Frazier