

Proposed Tentative

On October 22, 2024, plaintiff Kristen Kappel (plaintiff) filed a complaint against defendants Case Del Sol Spirits, Co., Steph Sebbag, and Colbi Corbett (collectively, defendants), for violations of Labor Code (the whistleblower statute per section 1102.5, failure to pay final wages, and failure to provide itemized and accurate wage and hour statements), breach of contract, breach of the implied covenant of good faith and fair dealing, unfair business practices, and a tort based on an adverse action in violation of public. Briefly, plaintiff alleges that venue is appropriate here because defendant's principal place of business, and all events occurred, in Santa Barbara County. Defendants hired plaintiff on April 25, 2022, as a Senior Vice President – Trade Marketing, and she began her role in this capacity on May 9, 2022. Plaintiff was allegedly forced to resign on July 12, 2024. Defendants have each filed separate answers.

There are two general matters on calendar. The first involves seven (7) motions to compel further responses filed by plaintiff, as follows 1) three (3) motions against defendant Case Del Sol Spirits Co. (Form Interrogatories, General, Set One, Request for Production Documents, Set One, and For Interrogatories 0 Employment Law, Set One); 2) two (2) motions against defendant Colbi Corbett (Form Interrogatories – General, Set One, and Request for Production of Documents, Set One); and 3) two (2) motions against defendant Steph Sebbag (Form Interrogatories, General, Set One, and Request for Production of Documents, Set One). Defendants have filed opposition, and plaintiff has filed replies. **The subject matter of these motions will not be addressed in this tentative; the court will address their subject matter orally with the parties separately at the hearing.**

The second matter involves an initial filing on October 31, 2025, which was refiled on November 26, 2025, including a Notice of Motion, a Memorandum of Points and Authorities, and declarations from defendant Colbi Corbett and attorney Diba Rastegar. Defendants request, pursuant to Code of Civil Procedure section 410.030, subdivision (a), et seq., that the court either dismiss or stay the present action on grounds of forum non conveniens, arguing South Carolina is the more appropriate forum, as plaintiff is “and always has been resident” of that state, “with no known ties to the State of California”; according to defendants, plaintiff “exclusively worked remotely,” while Case Del Sol Spirits Co is a Delaware corporation. Defendant argues that South Carolina is “suitable alternative forum” (Motion, p. 9); and that both the private and public interest factors require “dismissal” or a stay of plaintiff's action.

Defendants' motion contains two central themes. The first is defendant's claim that plaintiff at all times during her employment was a resident of South Carolina, performed all her work in South Carolina remotely, "never travelled to the State of California for any work purposes or as part of her remote-only work or at any time related to her work during her brief tenure" with Casa Del Sol Spirits Co; and at all times "paid South Carolina taxes . . ." (Motion, p. 7.) The second is defendants' contention that Case Del Sol Spirit's was never headquartered in California, contrary to the allegation in the operative pleading. According to defendants: "The Company was never headquartered in California, nor did it maintain a physical or virtual California office or subject to any California taxes of withholdings. . . . [¶] Defendant Casa Del Sol is corporation incorporated, organized and existing in the State of Delaware that produces and distributes luxury tequila. . . ." Defendant elaborates: ". . . While a limited number of Plaintiff's employment records previously listed Case Del Sol's address as being in Santa Ynez, California, this was never an office that Plaintiff, or any employee, ever worked out of and was not Casa Del Sol's headquarters. . . . Former CEO Steph Sebbag resided in Santa Ynez, California . . . Because Case Del Sol did not have an official office, as employees like Plaintiff worked remotely, Sebbag's Santa Ynez address was used for limited clerical reasons, such as receiving critical mail, for a limited period of time In addition to Sebbag's address, co-founder Lucien George's residential address in Aventura, Florida, was also similarly and interchangeably used for such clerical purposes . . . As such, no employees, including Plaintiff, ever worked out of the Santa Ynez address, as it was not an office and purely a clerical address. Plaintiff never visited the Santa Ynez address and never was required to travel to Santa Ynez or anywhere in California for work during her tenure with case Del Sol." (Motion, p. 10.) These allegations are supported by the declaration from Colbi Corbett, the current President and COO of Case Del Sol. No tax records or any government filings made by defendants have been submitted.

Plaintiff opposes the motion. Plaintiff claims somewhat cursorily that the South Carolina is not a suitable forum, but then argues, in the alternative, that the private interest factors favor California. Plaintiff observes that during her employment, plaintiff used multiple California addresses to reflect its headquarters (namely, 3546 Sagunto St. #966, Santa Ynez California, 1516 Monarch Driver, Santa Ynez, Ca., and 113 Electric Avenue #4, Venice, CA); and that the "Monarch Drive address was listed on" plaintiff's "2023 Tax Statement as Case Del Sol's headquarters." Plaintiff also contends that the material sources of proof and the majority of available witnesses are located in California, and supports this in her declaration with a list of witnesses and fellow employees she worked with in California. She also declares as follows: "During my employment, I regularly had to work with numerous vendors on behalf of Case Del Sol, " including Motive Marketing/Greg Fisher in San Diego; KK Social in Santa Monica, and North Ave. Brans/Jessie McConnell for Ventura. She also observes, contrary to defendants claims, that she spent time in California as part of her job: "From October 10, 2022, to October 12, 2022, I met with the Los Angeles leadership in person," and also visited various stores in

Los Angeles. Plaintiff also contends that numerous public interest factors favor California as the appropriate forum, as plaintiff held itself out as a “California-based” business and all claims arose here.

Defendant submitted a reply on February 17, 2026. All briefing has been reviewed.

The court will examine the relevant legal principles that frame the issues, and then address the merits of defendants’ motion. The court will conclude with a summary of its conclusions.

A) Legal Background

Forum non conveniens is an equitable doctrine invoking the discretionary power of a court to decline to exercise the jurisdiction it has over a transitory cause of action when it believes that the action may be more appropriately and justly tried elsewhere. (*Stangvik v. Shiley Inc.* (1991) 54 Cal.3d 744, 751.) Defendant bears the burden of proof when any motion is made under a forum non conveniens rationale, meaning defendant must provide the trial court with sufficient evidence to enable it to carry out its weighing and balancing analysis. (*National Football League v. Fireman’s Fund. Ins.* (2013) 216 Cal.App.4th 902, 926-197.) In determining whether to grant a motion based on forum non conveniens, a court must first determine whether the alternate forum is a “suitable” place for trial. “A forum is suitable if there is jurisdiction and no statute of limitations bar to hearing the case on the merits. [Citation.] ‘[A] forum is suitable where an action “can be brought,” although not necessarily won.’ ” (*Chong v. Superior Court* (1997) 58 Cal.App.4th 1032, 1036–1037; see *Kiely v. HYPH (USA), Inc.* (2025) 113 Cal.App.5th 95, 106.)

If there is a suitable forum, the next step is to consider the private interests of the litigants and the interests of the public in retaining the action for trial in California. The “private and public interest factors must be applied flexibly, without giving undue emphasis to any one element,” and no court should decide there are circumstances in which the doctrine will always apply or never apply. (*Stangvik, supra*, 54 Cal.3d at p. 753; “In other words, the court has the discretion to focus on those factors it deems relevant in deciding whether a forum non conveniens motion should be granted or denied.” (*Kiely, supra*, 113 Cal.App.5th at p. 108.)

The private interest factors are those that make trial and the enforceability of the ensuing judgment expeditious and relatively inexpensive, such as the ease of access to sources of proof (residence of parties, witnesses, and location of physical evidence), the cost of obtaining attendance of witnesses, and the availability of compulsory process for attendance of unwilling witnesses. Residence of both plaintiff and defendants are relevant in this calculus. (*Kiely, supra*, 113 Cal.App.5th at 108-109.) “Many cases hold that the plaintiff’s choice of forum should rarely be disturbed unless the balance is strongly in favor of the defendant. [Citations.] But the reasons

advanced for this frequently reiterated rule apply only to residents of the forum state. Where, however, the plaintiff resides in a foreign jurisdiction (another country), the plaintiff's choice of forum is much less reasonable and is not entitled to the same preference as resident of the state where the action is filed. (*Stangvik, supra*, at p. 755; see *Morris v. AGFA Corp.* (2006) 144 Cal.App.4th 1452, 1465, fn. 6 [noting some confusion in the law, because the actual holding of *Stangvik* involved a nonresident who was a resident of a foreign country, “not a resident of another state of the United States”]; see also *National Football League, supra*, 216 Cal.App.4th at p. 927 [the issue of whether a plaintiff who is a nonresident citizen of the United States is entitled to a “strong presumption” or “substantial deference” remained open for the competing decisions relied on by the parties in the present case].) After looking at the case law, and recognizing a split of authority on the question, the court in *National Football League, supra*. 216 Cal.App.4th 902 concluded as follows: “We thus conclude . . . as interpreted by the most well-reasoned decisions of our court of appeal colleagues, that a resident of one of our sister states who files suit in California is entitled to due deference under the circumstances presented, not a strong presumption, in favor of its choice of forum. That deference is to be weighed and balanced by the trial court along with all the other pertinent factors, including the defendant's residence or principal place of business, and has no direct bearing on the moving defendant's burden of proof.” (*Id.* at 929;¹ see also *Doe WHBE 3 v. Umber Technologies, Inc.* (2024) 102 Cal.App.5th 1135, 1144 [following *National Football League*].) Generally, the motion must be denied unless defendant establishes that California is a seriously inconvenient forum, although when plaintiff is a nonresident, it is error for the trial court to impose the seriously inconvenient burden on defendant. (*Fox Factory, Inc. v. Superior Court* (2017) 11 Cal.App.5th 197, 207.) Defendant's residence is also a factor to be considered in the balance of convenience. If a corporation is a defendant, the state of its incorporation “and the place where its principal place of business is located is presumptively a convenient forum. . . .” (*Stangvik, supra*, at p. 108.)

The public interest factors include avoidance of overburdening local courts with congested calendars, protecting the interests of potential jurors so that they are not called upon to decide cases in which the local community has little concern, and weighing the competing interests of California and the alternate jurisdiction in the litigation. (*Stangvik, supra*, 54 Cal.3d 744, 751.)

¹ To be clear, the deference given to a nonresident may actually turn on whether dismissal or a stay is sought. If a stay is granted, the California court retains jurisdiction, so that if for any reason plaintiff is denied a prompt trial in the alternative forum, the California court can order the action resumed in California. On the other hand, once a dismissal is ordered, the California court loses jurisdiction and there is nothing left to resume. For this reason, the court's power to dismiss an action for inconvenient forum is more limited than its power to stay. (Weil & Brown, Cal. Practice Guide: Civil Procedure Before Trial (The Rutter Group 2025), ¶ 3.409, citing *Archibald v. Cinerama Hotels* (1976) 15 Cal.3d 858-859.)

B) Merits

Initially, plaintiff does not contest the timeliness of the present motion per Code of Civil Procedure ²section 418.10(b); does not claim the motion was not brought within a “reasonable time”; and does not indicate she was prejudiced by the fact the motion was filed more than one year after the complaint was filed. (See, e.g., *Global Financial Distributors, Inc. v. Superior Court* (2019) 35 Cal.App.5th 179, 193 [under this provision, defendant can file a forum non conveniens motion after answering, as long as the motion is made within a reasonable time, and there is no prejudice to the nonmoving party]; *Martinez v. Ford Motor Co.* (2010) 185 Cal.App.4th 9, 21 19 [motion based on forum non conveniens properly granted when filed one year after complaint because no prejudice to plaintiff].) The court will therefore assume the motion is timely.

Second, defendant asks the court to ***dismiss*** the action under a forum non conveniens rationale, or in the alternative, to stay the matter. The court cannot dismiss the matter, pursuant to section 410.40, because it appears defendant Casa Del Sol Spirits Co., a Delaware foreign corporation, in its offer letter (which part of the breach of contract and breach of the implied covenant of fair dealing causes of action) agreed that the letter was to be “construed ***and enforced*** pursuant to the laws of the State of California.” (Emphasis added.) (Weil & Brown, Cal. Practice Guide: Civil Procedure Before Trial (The Rutter Group 2025) ¶ 3:410 [an action against a foreign corporation cannot be dismissed under forum non conveniens if it involves a contract that, inter alia, contains an agreement to submit to the jurisdiction of California courts].)³

On the merits, the court agrees with defendants, as reiterated in their reply, that South Carolina appears to be a suitable forum, meaning it is one in which a valid judgment ***may*** be obtained against the defendant. (*Stangvik, supra*, 54 Cal.3d at p. 752.) It appears that any action in that forum will not be barred by the statute of limitations (and plaintiff does not claim otherwise in opposition) (*Guimei v. General Electric Co.* (2009) 172 Cal.App.4th 689, 696.) Further, while defendants do not address the issue in their motion, it appears defendants would be subject to the

² All statutory references are to the Code of Civil Procedure unless otherwise indicated.

³ In opposition, plaintiff has attached to the declaration of Kristen Kappel as Exhibit A the April 19, 2022 offer letter of employment made by defendants to plaintiff. Part of the offer letter is a document styled “Exhibit A – Confidentiality[.]” which in turn contains the relevant clause at issue. Although this may generally be termed a choice-of-law provision, the language is broadly worded, and courts have interpreted similarly worded “choice of law” provisions, based on the word “enforced,” to evince an intention of the parties to submit to the application of California law, including submission to California courts. (See, e.g., *Mount Diablo Medical Center v. Health Net of California, Inc.* (2002) 101 Cal.App.4th 711, 722 [“the explicit reference to enforcement reasonably includes such matters as whether proceedings to enforce the agreement shall occur in court . . .”]; see also *Quanta Computer Inc. v. Japan Communications, Inc.* (2018) 21 Cal.App.5th 438,448-449 [pursuant to § 410.40, a party may maintain an action against a foreign corporation where the actions arises out of relates to any contract for which “a choice of California law had been made” and where the contract contains a provision that provides a party has agreed to the submission to California courts].) Defendants cannot hardly claim, for example, that they did not agree to personal jurisdiction of a California court in order to allow enforcement of the employment letter. (See, e.g., *Global Packaging, Inc. v. Superior Court* (2011) 196 Cal.App.4th 1623, 1633 fn. 11.)

personal jurisdiction of South Carolina courts. (See, e.g., *American Cemwood Corp. v. American Home Assurance Co.* (2001) 87 Cal.App.4th 431, 440.) South Carolina’s long-arm statute authorizes the exercise of personal jurisdiction if the cause of action arose from the defendant’s entry into a contract to be performed in whole or in part in South Carolina, and a resident’s performance of the contract in South Carolina constitutes part performance sufficient to satisfy the statute. (*Colite Industries, Inc. v. G.W. Murphy Const. Co., Inc.* (1989) 297 S.C. 426, 428 [377 S.E.2d 321,322.]) While the court is concerned about South Carolina’s personal jurisdiction over the individual defendants Corbett and Sebbag, the court will assume these defendants will at a minimum be willing to submit to South Carolina’s jurisdiction as condition of this court granting its motion to stay, and they concede they will in reply. (*Stangvik, supra*, 54 Cal.3d at p. 752.) Plaintiff has failed to show that South Carolina would not provide a remedy to plaintiff. (Weil & Brown, *supra*, ¶ 3.423.4.)

As to the balance of the private and public interests (i.e., the balance of convenience), the court also agrees with defendant that plaintiff’s choice of forum here, as a resident of South Carolina, is entitled to “due deference” under all the circumstances, but not a “strong presumption” of appropriateness.⁴ The court also finds that it would be inappropriate to require defendant to establish that California is seriously inconvenient forum for it to prevail, either because plaintiff is a nonresident or because the court can only impose a stay. (Weil & Brown, *supra*, ¶ 3:408.85.)

Despite these acknowledgments, a number of problems exist with defendants’ motion under the appropriate balancing test, keeping in mind that it is defendants’ burden to demonstrate the merits of their motion. Our high court has made it clear, for example, that within this balancing equation, defendants’ residence is a relevant private factor, and when a corporation is involved (i.e., such as Casa Del Sol Spirits Co.) “the state of its incorporation **and the place whether it principal basis of business is a presumptively convenient forum.**” (*Stangvik, supra*, 54 Cal.3d at p. 755, emphasis added.) It is undisputed that the individual defendants are residents of California, and notably of Santa Ynez. It is also undisputed that Casa Del Sol Spirits Co. is incorporated in Delaware. But defendants (through the declaration of Colbi Corbett, as noted above) make only a perfunctory showing that Casa Del Sol Spirits Co. has an attenuated

⁴ Defendants in reply contend that where plaintiff is “based” is definitive in a forum non conveniens determination, citing to *Ward v. United Airlines* (2020) 9 Cal.5th 732; and argue in reply that where plaintiff “worked” is also critical, citing to *Sullivan v. Oracle Corp.* (2011) 51 Cal.4th 1191. Neither case is apposite, as neither involved any issue or discussion of the standards associated with a forum non conveniens determination. Perhaps more fundamentally, defendants overlook the following statement made by our high court in *Oman v. Delta Air Lines, Inc.* (2020) 9 Cal.5th 762, which clearly counters the import of defendants’ declarations as detailed above. “[California’s] power to protect employees within its border is not limited by whether the worker might be a nonresident or might be employed by a nonresident entity,” requiring only “some degree of connection between the subject matter of the statutory claim and the State of California,” and the test is satisfied generally when “California serves as their base of work operations.” (*Id.* at p. 773.) Clearly, where plaintiff is based, and where plaintiff worked, are not “definitive,” as defendants claims.

relationship to California generally and to Santa Ynez specifically. Defendants offer nothing of substance but Mr. Corbett’s conclusory declaration. According to Mr. Corbett, Casa Del Sol Spirits Co. was “never headquartered in California, nor did it maintain a physical or virtual California office at any time since its 2021 incorporation.” (§ 2.) Yet nothing in Mr. Corbett’s declaration meaningfully counters plaintiff’s statement, made in her declaration, that the “Monarch Drive” address in Santa Ynez was listed on her 2023 Tax Statement as Case Del Sol Spirits Co.’s headquarters. Mr. Corbett simply contends in his declaration that he “is aware that a limited amount of [plaintiff’s] employment records, including paystubs, listed Case Del Sol Spirits Co.’s address as 1516 Monarch Drive, Santa Ynez, California, 93460. This is because Case Del Sol Spirits Co. did not have an official office as employees worked remotely,” and Mr. Sebbag’s home address in Santa Ynez was used for “limited clerical purposes” for a “limited period of time.”

The court finds defendants’ bare-bones evidentiary showing to be inadequate. The court will take judicial notice on its own motion of the filings made with the California Secretary of State, and notes that in the initial filing by Casa Del Sol Spirits Co made on September 28, 2021, defendants listed the principal place of business for Casa Del Sol Spirits Co. as “1516 Monarch Drive Santa Ynez, Ca, 93460,” with a mailing address at 1113 Electric Avenue # 4 Venice Ca 90291. This is hardly a “limited clerical purpose” as claimed by defendants. The point is underscored by the existence of “Form D,” filed with the United States Securities and Exchange Commission (of which the court also takes judicial notice), dated September 8, 2021; as of this date “***the principal place of business and contact information***” for Casa Del Sol Spirits Co. was listed as 1516 Monarch Drive, Santa Ynez. Again, one can hardly call such a finding a “limited clerical” purpose, as Mr. Corbett claims. Perhaps most troubling is the fact Mr. Corbett declares without nuance or explanation that as of “June 2025” the “clerical address” was changed to 111 NE. 1st Street 9th Street Floor #8308 Miami Florida, 33132, and *presently, Casa Del Sol does not maintain any California address for any reason, including clerical work.*” (Italics added.) Defendants present no objective evidence – none – to support this contention. Yet even the most cursory examination of Casa Del Sol Spirits Co.’s social media presence reveals that defendants presently list the company’s current address as 3564 Sagunto Street Santa Ynez California, directly countering statements made in Mr. Corbett’s declaration.⁵ The evidence before the court

⁵ The court will take judicial notice, pursuant to Evidence Code section 452(h), of defendants’ use of social media to advertise its liquor, and that this presence on social media is not reasonably subject to dispute and is capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy. To be clear, the court is taking judicial notice of the existence of defendant’s social media’s existence, not the truth of any representations made therein. (*Ragland v. U.S. Bank National Assn.* (2012) 209 Cal.App.4th 182, 193 [while we may take judicial notice of the existence of Web sites, we may not accept their contents as true]; *Robinson v. Binello* (N.D. Cal. 2025) 771 F.Supp.3d 1114, 1127 [although the Court can take judicial notice of the webpages’ existence and content, it cannot take judicial notice of the truth of any representations therein].) It is the existence of the statements made, not their truth, that the court can judicially notice. And it is the existence of these references that undercut Mr. Corbett’s claim that presently defendants do not maintain any address in California – the presence of this statement, rather than its truth, requires explanation, which has not been provided.

shows that all defendants’ are located in California, making California a presumptively proper forum. These factors weigh against granting the motion for a stay.

The court also finds that the location of material witnesses and the existence of material physical evidence can primarily be found in California. Unquestionably plaintiff is located in South Carolina. Defendants, however, are primarily located in California. And it appears all relevant electronic communications were either sent from or sent to California.⁶ More to the point, as noted in plaintiff’s declaration, she was required as part of her job “to interact with numerous California-based employees on a regular basis” – defendants Sebbag and Corbett, but also Vice President Kaitlin McGonagol, Nikki Heaps, Stephen Miles, Gabi Medvene-Cirigliano, May Gonzales, Carissa Ferrari, Jessica Harbor-Dunn, Elle Holinger, Mikael Sneward, Katrina Balas-Karasouk, and Kristin Crawford. All of these individuals are potential witnesses, and all are apparently located in California. The costs of obtaining discovery from them and their presence at trial (a point not addressed by defendants in their motions) weigh in favor of keeping the lawsuit here. This is buttressed by the availability of compulsory process for attendance of any unwilling witnesses. (*Morris v. AGFA Corp.* (2006) 144 Cal.App.4th 1452, 1464.) These factors, in the court’s view, inure to plaintiff’s favor in keeping the matter here.⁷

The public factors also weigh in favor of plaintiff, and thus denial of the motion. This matter does not necessarily present a question of congested calendar management. Only one case is at play. (See, e.g., *Stangvik, supra*, 54 Cal.3d at p. 758 [court congestion was a problem as foreign plaintiffs have filed 108 actions in California against defendants]; see *Roulier v. Cannondale* (2002) 101 Cal.App.4th 1180, 1188 [other than plaintiff, there was only one percipient witness outside California and the litigation would not burden defendants].) And it cannot be said that the local community in particular – or California in general – has no interest in determining the scope of liability for workers who reside out of state (i.e., who work remotely) when they work for a business in California. Any allegedly untoward decisions made by defendants, as alleged in the complaint, were made in California, not South Carolina, even if their impact was on a resident of South Carolina. (See, e.g., *Berg v. MTC Electronics Technologies Co. Ltd.* (1998) 61 Cal.App.4th 349, 363 [California forum appropriate when California is the “center of gravity” of the dispute].) California clearly has a significant interest in interpreting and determining the scope of its wage and hour laws to those working for businesses in California,

⁶ In reply, defendants observe that plaintiff “performed all work from a home office in South Carolina.” But what appears evident (and what is overlooked by defendants) is that defendants’ decisions about plaintiff’s employment (at least as alleged in the operative pleading) were all made in California.

⁷ Defendant, in the attachments to the declaration of Diba Rastegar, produces a host of discovery responses offered by defendant Casa Del Sol Spirits Co, involving its responses to Form Interrogatories, Employment, Set One (Exhibit C). The responses seem boilerplate and rote, involving simple declarative statements that plaintiff was not subject to California law, did not work in California, and did not enter California for job purposes. Other than the fact plaintiff worked remotely in South Carolina, no meaningful evidence helpful to resolution of the present motion has been presented on these discovery responses. The remaining Exhibits (A, B, D, and E) involve meet and confer efforts between the parties.

including whistleblower protections, even when nonresidents are involved. (See, e.g., *Ford Motor Co.*, *supra*, 35 Cal.App.4th at p. 612 [two of the more important factors to be considered are California’s interest in regulating the conduct involved and the public’s interest in the case]; *Baumann v. Chase* (9th Cir. 2014) 747 F.3d 1117, 1123 [the public has a great interest in the enforcement of California’s labor laws].)

Two cases cited by defendants in reply – *Ward v. United Airlines*, *supra*, 9 Cal.5th 732, and *Sullivan v. Oracle Corp.*, *supra*, 51 Cal.4th 1191– actually support the court’s determination. In *Ward*, the Ninth Circuit asked the court to decide whether under California law defendants had to comply with California law regarding wage statements when plaintiff’s worked predominately outside California. (*Ward*, *supra*, at p. 740.) In *Sullivan*, plaintiffs were residents of Colorado and Arizona, and they sued for overtime compensation under California Labor Code provision for work performed in California, suing in federal court for alleged violations of California law for employment violations under a diversity jurisdiction rationale. The Ninth Circuit certified to our high court the following issues of California law: 1) whether California’s overtime provisions apply to plaintiffs’ claims for compensation for work performed in this state? 2) whether these same claims can support a UCL cause of action?; and 3) whether claims for overtime compensation under the federal Fair Labor Standards Act of 1838 can be utilized under California law for work performed in other states? While the *Ward* and *Sullivan* courts came to disparate conclusions in answering these questions, the point for our immediate purpose is that California retains an interest in determining the scope of its labor laws to nonresident workers (and certainly the Ninth Circuit thought so). While there can be little doubt that the causes of action at issue here implicate the so-called “presumption against extraterritorial application” (*Sullivan*, *supra*, 51 Cal.4th at p. 1207) given plaintiff’s residence in South Carolina, the salient point of *Ward* and *Sullivan* here is that California courts are better situated to determine the scope of California employment issues than are courts in South Carolina. It should be remembered that plaintiff is suing defendants for violations of California law, not violations of law from South Carolina. Both *Ward* and *Sullivan* support the conclusion that the public interest factors weigh in favor of keeping the matter here as a result.⁸

⁸ The court wants to make itself perfectly clear on this point. Nothing in this order should be read to suggest the court is addressing the viability of plaintiff’s causes of action to the extent they implicate the presumption against extraterritorial application; put differently, the court is not determining here whether plaintiff can advance violations of California when she was a resident of, and physically present in, South Carolina at the time the alleged violations occurred and when most of her labor occurred outside California (if that it’s the case). In *Ward*, the court determined “that whether plaintiffs are entitled to California-compliant wage statements depends on whether their principal place of work is in California. For pilots, flight attendants, and other interstate transportation workers who do not perform the majority of their work in any one state, this test is satisfied when California serves as their base of work operations” (*Id.* at p. 740; see also p. 755 [does California have the most significant relationship to the work?]; see also *Oman*, *supra*, 9 Cal.5th 762, 772 [our precedent makes clear that application of California wage and hour protections to multistate workers like Oman may vary on a statute-by-statute basis].) The court at this time is simply determining that California courts should make these determination – not what those determinations should be.

After looking at the totality of circumstances, and after weighing all factors both for and against defendant's motion under the appropriate standard, the court denies the motion to dismiss or stay the matter based on forum non conveniens grounds.

The parties are directed to appear to discuss the seven (7) motions to compel further responses on calendar, as well as the CMC scheduled for the hearing date.