PARTIES/ATTORNEYS

Plaintiff	Isaac Alvarado	Ryan Buchanan
Defendant/Cross-Defendant	Ruben Garcia Santa Barbara Tire & Service Inc	Megan K. Hawkins
Defendant/Cross-Complainant	Heather Marie Schiff	Brian S. Dewey

PROPOSED TENTATIVE

In a complaint filed on February 14, 2025, plaintiff Isaac Alvarado (plaintiff) filed a complaint against defendants Santa Barbara Tire Service Center Inc., Ruben Garcia (Garcia), and Heather Marie Schiff (Schiff) (collectively, defendants), advancing one negligence cause of action with four subparts – two causes of action against Heather Marie Schiff and two causes of action against Ruben Garcia (in both instances negligence and negligence per se). Santa Barbara Tire & Service Center Inc. is not a named party in the heading of any negligence cause of action, although plaintiff makes it clear that the term "defendants" as used in the operative pleading references Garcia, Schiff and Santa Barbara Tire & Service Center Inc. The operative pleading does not describe the relationship between Santa Barbara Tire & Service Center Inc. and the two other defendants. According to the operative pleading, on January 2, 2024, Schiff, while negligently driving an automobile, collided with plaintiff at the intersection of Central Ave. and V Street, in Lompoc, causing injury to plaintiff. Separately, according to the operative pleading, on July 11, 2024, Garcia negligently operated a vehicle and collided with plaintiff's vehicle, causing injury.

As relevant for our purposes, plaintiff asks for punitive damages against Garcia, as outlined in paragraphs 61 to 70 of the operative pleading. Plaintiff alleges that Garcia, at the time of the collision with plaintiff, was under the influence of alcohol and/or drugs. Garcia has a 1) well-documented history of drug and/or alcohol abuse; 2) and on "information and belief" on July 11, 2024, he had consumed intoxicants, knew he would drive a motor vehicle, with knowledge that "consuming alcohol or using drugs would occur prior to his attempt to drive a motor vehicle"; 3) Garcia "rapidly consumed large quantities of alcohol and/or drugs" before driving; knew that this amount would impair his ability to drive, chose to consume the alcohol and knew that he would be required to drive himself without the assistance of any other person, and knew while consuming the alcohol/drugs that he would "operate the vehicle on a public roadway." Plaintiff pleads that Garcia previously caused a November 19, 2019 motor vehicle collision, and was arrested and charged with misdemeanor driving under the influence pursuant to Vehicle Code section 23152, subdivision (b) for driving under the influence with a blood alcohol content in excess of .08 percent, to which he ultimately entered a no-contest plea. Based on these allegations, plaintiff claims that defendant Garcia acted with malice (i.e., with a conscious disregard for the rights and safeties of others, constituting despicable conduct).

Defendant Garcia has filed a motion to strike the claim for punitive damages, arguing plaintiff has failed allege sufficient facts in support. According to Garcia, plaintiff is simply using "buzz words" without factual allegations. He contends that plaintiff has failed to plead what is required by *Taylor v. Superior Court* (1979) 24 Cal.3d 890, because plaintiff makes claims "on information and belief" – but offers no facts to justify the belief. Plaintiff has filed opposition, claiming he has stated a factual basis for punitive damages. A reply was filed on August, 6, 2025. All briefing has been reviewed.

We start with Civil Code section 3294, subdivision (a), which provides that "in an action for the breach of an obligation not arising from contract, where it is proven by clear and convincing evidence that the defendant has been guilty of oppression, fraud, or malice, the plaintiff, in addition to the actual damages, may recover damages for the sake of example and by way of punishing the defendant." As relevant for our purposes, "malice" means "conduct which is intended by the defendant to cause injury to the plaintiff" or "despicable conduct which is carried on by the defendant with a willful and conscious disregard of the rights or safety of others." There is no allegation here that defendant Garcia acted with an intent to injure. Accordingly, for there to be "malice," defendant's conduct must be "despicable," "willful," and amount to a "conscious disregard of the rights and safety of others."

In *Taylor v. Superior Court* (1979) 24 Cal.3d 890, our high court concluded that the act of driving a motor vehicle while intoxicated could constitute an act of "malice" within Civil Code section 3294, permitting recovery of punitive damages. (*Herrick v. Superior Court* (1987) 188 Cal.App.4th 787, 790.) However, after *Taylor*, the Legislature added the words "willful" and "conscious disregard" to the statutory definition of "malice" in Civil Code section 3294, although this simply "conformed the literal words of the statute to the existing case law formulations" contained in *Taylor*, supra, 24 Cal.3d at pages 895-896, which had determined that "malice" involves "awareness of the dangerous consequences and willful and deliberate failure to avoid them." (*College Hospital, Inc. v. Superior Court* (1994) 8 Cal.4th 704, 725.) Civil Code section 3294's reference to "despicable" conduct represents a new substantive limitation after *Taylor*, and requires conduct that is "so vile, contemptible, miserable, wretched, or loathsome that it would be looked down upon and despised by ordinary decent people" – conduct that has the character of outrage frequently associated with a crime. (*American Airlines, Inc. v. Sheppard, Mullin, Richter, & Hampton* (2002) 96 Cal.App.4th 1017, 1050-1051; *Butte Fire Cases* (2018) 24 Cal.App.5th 1150, 1160, citing *Taylor v. Superior Court, supra*, 24 Cal.3d at pp. 895-896 [merely reckless disregard or misconduct cannot be enough to sustain an award of punitive damages – must be more than recklessness alone].)

A close review of *Taylor* frames the issues before the court. In *Taylor*, plaintiff and defendant were involved in an automobile accident Plaintiff alleged that defendant had been alcoholic for a substantial period of time, was "well aware of the serious nature of alcoholism," and his "tendency, habit, history, practice, proclivity, or inclination to drive a motor vehicle while under the influence of alcohol; and that [defendant] was also aware of the dangerousness of his driving while intoxicated." (*Taylor, supra*, 24 Cal.4th at p. 893.) Plaintiff further alleged that defendant "has previously caused a serious automobile accident while driving under the influence; that he had been arrested and convicted for drunken driving on numerous prior occasions; that at the time of the accident herein, [defendant] has recently completed a period of

probation which followed a drunk driving conviction; that one of his probation conditions was that he refrain from driving for at least six hours after consuming any alcoholic beverage; and that at the time of the accident in question he was presently facing additional pending criminal drunk driving charge." Additionally, plaintiff alleged that despite his alcoholism, defendant accepted employment which required him both to call on various commercial establishments where alcoholic beverages were sold, and to deliver or transport such beverages in his car. Based on this, plaintiff alleged that defendant "acted with conscious disregard of Plaintiff's safety . . ." as the basis for punitive damages. The trial court sustained a demurrer (at that time a demurrer not a motion to strike was used to challenge punitive damages).

The high court reversed, concluding plaintiff pleaded sufficient evidence to support malice under a conscious disregard theory. ". . . Conscious disregard of the safety of others may constitute malice within the meaning of Section 3294 of the Civil Code. In order to justify an award of punitive damages on this basis, the plaintiff must establish that the defendant was aware of the probable dangerous consequences of his conduct, and that he willfully and deliberately failed to avoid those consequences." (*Id.* at p. 895-896.) "Drunken drivers are extremely dangerous people." *Taylor* held only that "one who voluntarily commences, and thereafter continues, to consume alcoholic beverages to the point of intoxication, knowing from the outset that he must thereafter operate a motor vehicle demonstrates, in the word of Dean Prosser, 'such a conscious and deliberate disregard of the interests of others that his conduct may be called willful or wanton.' [Citation omitted.]" That being said, "routine negligence or even reckless disobedience of traffic laws would not justify an award of punitive damages." The court found the pleaded allegations in *Taylor* "sufficient" to support punitive damages. (*Id*. at p. 900.)

Taylor made the following relevant observations about the complaint filed therein: Allegations of alcoholism, prior arrests and convictions for drunk driving, and any prior accident attributable to intoxication (and others) "may reasonably be said to confirm defendant's awareness of his inability to operate a motor vehicle safely while intoxicated. Yet the essence of . . . the present complaint[] remains the same: Defendant became intoxicated and thereafter drove a car while in that condition, despite his knowledge of the safety hazard he created thereby. This is the essential gravamen of the complaint, and while a history of prior arrests, convictions, and mishaps may heighten the probability and foreseeability of an accident, we do not deem these aggravating factors essential prerequisites to the assessment of punitive damages in drunk driving cases." (*Taylor, supra*, 24 Cal.3d at p. 896.)

Taking into account these standards, and after comparing the complaint here with the complaint in *Taylor,* the court finds that plaintiff has failed to allege with specificity the facts necessary to show malice. (*Today's IV, Inc. v. Los Angeles County Metropolitan Transportation Authority* (2022) 83 Cal.App.5th 1137, 1193.) It is true that a plaintiff may allege on "information and belief" any matters that are not within his personal knowledge, *but only if he has information leading him to believe that the allegations are true.* (*Doe v. City of Los Angeles* (2007) 42 Cal.4th 531, 550.) Matters alleged in information and belief do not by themselves serve to establish the facts stated. (*Star Motor Imports, Inc. v. Superior Court* (1979) 88 Cal.App.3d 201, 205.) Plaintiff claims that on July 11, 2024, based on "information and belief," Garcia "consumed alcohol and/or drugs to the point of illegal intoxication," and "rapidly consumed large quantities of alcohol and/or drugs before driving . . . ." How does plaintiff have

information to support his belief that defendant was intoxicated, that plaintiff consumed alcohol quickly before the accident, and that his intoxication was a proximate cause of the accident? He provides nothing, such as an arrest, evidence of bloodshot eyes, etc. Critically, the factual basis that supports plaintiff "belief" must be alleged – but it has not. Simply put, plaintiff has failed to allege ***any*** factual basis upon which he could infer the above-stated claims. The mere fact of "information and belief" does not itself provide the necessary factual predicate. If plaintiff adequately pleads defendant's intoxication at the time of the accident, and further that the intoxication was a cause of the accident, he may be able to infer on "information and belief" that Garcia had knowledge of the risk to human life and consciously disregarded it, bolstered by his prior driving under the influence conviction involving an accident, and that the conduct was therefore "despicable." But that predicate was not alleged, and therein lies the defect.

Because the necessary predicate for "information and belief" has not been alleged with factual specificity, the court grants the motion to strike the requests for punitive damages, with leave to amend. Plaintiff has 30 days from today's hearing to file a first amended pleading. Plaintiff, since he is filing an amended pleading, should also clarify how defendant Santa Barbara Tire & Service Incorporated is liable for negligence, as it is uncertain from the face of the operative pleading.

The parties are directed to appear either in person or by Zoom. A CMC is also scheduled for August 13.