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ELECTRONICALLY
FILED
*Superior Court of California,
County of San Francisco*
10/27/2025
Clerk of the Court
BY: AUSTIN LAM
Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO – UNLIMITED CIVIL JURISDICTION

ELIZABETH CONNELL,

Plaintiff,

vs.

MICHAEL EPSTEIN, and DOES 1-10,

Defendants.

Case No. CUD-23-671141

**PLAINTIFF’S MOTION IN LIMINE #2: TO
EXCLUDE PREJUDICIAL AND
IRRELEVANT EVIDENCE AS TO
DEFENDANT’S AGE AND FACTORS
IMPACTING DEFENDANT’S ABILITY TO
RELOCATE**

Trial Date: October 27, 2025

I. INTRODUCTION

Plaintiff anticipates that Defendant will attempt inject into this action several irrelevant and, ultimately prejudicial, issues which will remove attention from the dispute at issue in an attempt to win based on sympathy in lieu of the law. Specifically, Defendant has created a website containing a host of prejudicial representations—such as Defendant’s age, health issues, length of tenancy, and anticipated difficulty relocating—all of which, if presented to the jury would and could only serve as an attempt at jury nullification as they have no bearing on the legal case at hand.

II. DISCUSSION

California Evidence Code § 350 states, “No evidence is admissible except relevant evidence.” Relevant evidence means evidence having any tendency in reason to prove or disprove any disputed fact that is of consequence to the determination of the action. (Evid.Code § 210.) A court has discretion to deny even relevant evidence if it finds that the probative value of the evidence is substantially outweighed by the amount of time it would take to establish the evidence. (Evid.Code § 352.) This Court has broad authority to exclude evidence at trial that is irrelevant, time consuming, unduly prejudicial to a party, or confuses or misleads the jury. (Evid. Code §§ 350, 352; *see also* Evid. Code §402(b); *Department of Public Works v. Graziadio* (1965) 231 Cal.App.2d 525, 532 (“It was proper for the trial judge, outside the presence of the jury, to determine the preliminary questions of fact upon which the admissibility of the evidence depended.”).) Only relevant evidence should be admitted at trial. (Evid. Code § 350.) Evidence may be excluded if its “probative value is substantially outweighed” by the probability its admission will necessitate undue consumption of time or create substantial danger of undue prejudice, or confuse the issues or mislead the jury. (Evid. Code § 352.) This Court also has broad discretion to exclude evidence in order to curb abuses and promote fair process. (*See Peat, Marwick, Mitchell & Co. v. Sup. Ct. (People)* (1988) 200 Cal.App.3d 272, 287.)

Here, Defendant has already created and circulated a website aimed at garnering public attention and sympathy: <https://fighteldereviction.org/>. Defendant should be prohibited from introducing evidence regarding 1) his age, 2) his health issues, and 3) his prospects for alternative living spaces. Defendant has historically attempted to rely on his age, his purported health issues, and his purported inability to find alternative housing as a means to justify his refusal to vacate the property despite proper notice (and proper reason) by Plaintiff. Each of these items are entirely irrelevant to the cause of action before the Court: unlawful detainer for breach of covenant. They do not go to nay of the ultimate elements of the case (whether a covenant was breached in violation of a lease agreement, or service of the necessary notices proper).

Defenses are particularly limited in unlawful detainer matters as they are summary proceedings. “Only issues relevant to the ultimate question of *possession* and which, if

1 established, would result in the tenant's right to retain possession, may be asserted in defense to
2 an unlawful detainer.” (*Drouet v. Sup.Ct. (Broustis)* (2003) 31 Cal.4th 583, 587; *Green v. Sup.Ct.*
3 (*Sumski*) (1974) 10 C3d 616, 634-635.) Age, health, and alternative living space are not defenses
4 to unlawful detainer.

5 Furthermore, these are not arguable points, which Plaintiff would have the opportunity to
6 disprove or disagree with, without discovery of the same. Plaintiff does not have access to
7 Defendant’s health records or proof of any attempts to obtain or research alternative housing.

8 9 **III. CONCLUSION**

10 For the above stated reasons, Plaintiff respectfully asks the Court to exclude the
11 introduction, discussion and admissibility of any matters or issues relating to Defendant’s age,
12 health or alternative housing prospects.

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14 Dated: October 26, 2025

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17 By: 

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