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Superior Court of California
County of Los Angeles

AUG 08 2025

David W. Stayton, Executive Officer/Clerk of Court
By: S. Luqueno, Deputy

Superior Court of California
County of Los Angeles
Department 32

MARY KATHERINE KOONS,
Plaintiff,
v.
AUDIO UP INC., et al.,
Defendants.

Case No.: 24STCV34600
Hearing Date: August 8, 2025

ORDER RE:
ANTHEM ENTERTAINMENT L.P.'S
DEMURRER TO MARY KATHERINE
KOONS' FIRST AMENDED COMPLAINT

BACKGROUND

On December 31, 2024, Plaintiff Mary Katherine Koons (Koons) filed this action against Defendants Audio Up Inc. (Audio Up), Anthem Entertainment L.P. (Anthem), and Jared Gutstadt (Gutstadt). On April 16, 2025, Koons filed the operative First Amended Complaint, asserting claims for: (1) sex trafficking; (2) battery; (3) sex discrimination; (4) sexual harassment; (5) retaliation; (6) failure to prevent; and (7) defamation.

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1 According to the FAC, Koons is an aspiring artist who was in an abusive relationship
2 with Gutstadt, an entertainment executive, beginning in 2017. Gutstadt allegedly exploited the
3 power dynamic to coerce and manipulate Koons. This allegedly involved sexual assault, rape,
4 and sex trafficking. Audio Up is a podcast company founded by Gutstadt in 2020, and Anthem is
5 a music company which began a joint publishing venture with Audio Up in 2024. Koons seeks to
6 hold Audio Up and Anthem liable as joint employers who were aware of and profited from her
7 exploitation.

8 On February 25, 2025, Gutstadt filed a complaint against Koons for (1) invasion of
9 privacy, (2) interference with prospective economic advantage, (3) intentional infliction of
10 emotional distress, and (4) civil theft (*Jared Gutstadt v. Mary Katherine Koons*,
11 25SMCV00972). The two cases have been consolidated, with this case as the lead case.

12 On June 2, 2025, Anthem filed the instant demurrer to Koons' FAC. Koons filed an
13 opposition on June 16, 2025. Anthem filed a reply on June 23, 2025.

14 LEGAL STANDARD

15 A demurrer for sufficiency tests whether the complaint states a cause of action. (*Hahn v.*
16 *Mirida* (2007) 147 Cal.App.4th 740, 747.) When considering demurrers, courts read the
17 allegations liberally and in context. (*Taylor v. City of Los Angeles Dept. of Water and*
18 *Power* (2006) 144 Cal.App.4th 1216, 1228.) In a demurrer proceeding, the defects must be
19 apparent on the face of the pleading or by proper judicial notice. (Code Civ. Proc., § 430.30,
20 subd. (a).) A demurrer tests the pleadings alone and not the evidence or other extrinsic matters.
21 (*SKF Farms v. Superior Court* (1984) 153 Cal.App.3d 902, 905.) Therefore, it lies only where
22 the defects appear on the face of the pleading or are judicially noticed. (*Ibid.*) The only issue
23 involved in a demurrer hearing is whether the complaint, as it stands, unconnected with
24 extraneous matters, states a cause of action. (*Hahn, supra*, 147 Cal.App.4th at 747.)

25 MEET AND CONFER

1 Before filing a demurrer or a motion to strike, the demurring or moving party is required
2 to meet and confer with the party who filed the pleading demurred to or the pleading that is
3 subject to the motion to strike for the purposes of determining whether an agreement can be
4 reached through a filing of an amended pleading that would resolve the objections to be raised in
5 the demurrer. (Code Civ. Proc., §§ 430.41, 435.5.) The Court finds that Anthem has satisfied the
6 meet and confer requirement. (See Schmidt Decl.)

7 DISCUSSION

8 **I. Statutory Framework**

9 The California Trafficking Victims Protection Act (CTVPA) allows “[a] victim of human
10 trafficking, as defined in Section 236.1 of the Penal Code, [to] bring a civil action.” (Civ. Code,
11 § 52.5(a).) Penal Code section 236.1 defines three categories of conduct as human trafficking: (a)
12 “deprives or violates the personal liberty of another with the intent to obtain forced labor or
13 services;” (b) “deprives or violates the personal liberty of another with the intent to effect or
14 maintain a violation of” certain Penal Code provisions; and (c) “causes, induces, or persuades, or
15 attempts to cause, induce, or persuade, a person who is a minor at the time of commission of the
16 offense to engage in a commercial sex act.” (Pen. Code, § 236.1.)

17 The Penal Code incorporates the federal definition of human trafficking as found in 22
18 U.S.C. § 7102(11). (Pen. Code, § 236.1(g).) That statute, in turn, defines trafficking as: (a) “sex
19 trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the
20 person induced to perform such act has not attained 18 years of age;” or (b) “the recruitment,
21 harboring, transportation, provision, or obtaining of a person for labor or services, through the
22 use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage,
23 debt bondage, or slavery.” (22 U.S.C. § 7102(11).)

24 “Sex trafficking” is defined as “the recruitment, harboring, transportation, provision,
25 obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act.” (22

1 U.S.C. § 7102(12).) “Commercial sex act” is defined as “any sex act on account of which
2 anything of value is given to or received by any person.” (*Id.*, § 7102(4).) “Coercion” is defined
3 as: (a) “threats of serious harm to or physical restraint against any person;” (b) “any scheme,
4 plan, or pattern intended to cause a person to believe that failure to perform an act would result
5 in serious harm to or physical restraint against any person;” or (c) “the abuse or threatened abuse
6 of the legal process.” (*Id.*, § 7102(3).) “Involuntary servitude” is defined as “a condition of
7 servitude induced by means of (A) any scheme, plan, or pattern intended to cause a person to
8 believe that, if the person did not enter into or continue in such condition, that person or another
9 person would suffer serious harm or physical restraint; or (B) the abuse or threatened abuse of
10 the legal process.” (*Id.*, § 7102(8).)

11 **II. Acts of Human Trafficking**

12 Anthem argues that the FAC fails to plead any act of human trafficking under the
13 statutory definitions because there was no commercial sex act (such as prostitution), slavery, or
14 involuntary servitude. Rather, according to Anthem, the facts describe a consensual, albeit
15 abusive, relationship between a music executive and his girlfriend. However, the broad statutory
16 definitions of human trafficking, combined with the allegations in the FAC, are sufficient to
17 create an inference that human trafficking occurred for pleading purposes.

18 Specifically, the FAC alleges that Koons was groomed into being dependent on Gutstadt
19 for her career and financial wellbeing, felt compelled to perform sex acts in exchange for career
20 advancement, and was told that speaking out would ruin her career. (FAC ¶¶ 75, 126-139, 166,
21 188, 219.) The FAC alleges that Gutstadt was physically violent toward Koons, raped Koons,
22 and threatened Koons when she sought outside opportunities. (*Id.*, ¶¶ 282, 316-317, 338, 355.)
23 Read together and interpreted liberally, these facts raise a reasonable inference that Gutstadt
24 obtained sex in exchange for something of value, utilized threats of harm or physical restraint to
25 keep Koons dependent on him, and caused Koons to believe that failure to perform an act or

1 service would result in serious harm. This satisfies the definitions of “commercial sex act,”
2 “coercion,” and “involuntary servitude,” and thus potentially implicates human trafficking. The
3 allegations describe more than mere abuse and sexual assault. It is a factual question whether the
4 relationship was consensual, *i.e.*, whether Koons pursued a relationship with Gutstadt solely
5 under her own subjective belief that it might lead to career opportunities, or if there was some
6 element of coercion or duress involved. The Court cannot find as a matter of law, on the
7 pleadings alone, that Koons was not the victim of human trafficking.

8 *People v. Freeman* (1988) 46 Cal.3d 419, which Anthem relies upon, is distinguishable
9 from the present case. In *Freeman* the criminal defendant hired adult actors to perform lawful
10 sex acts in a nonobscene motion picture produced and directed at a private residence. The
11 Supreme Court reversed the conviction for pandering on the grounds that the filmmaker lacked
12 the requisite mens rea or purpose to establish procurement for purposes of prostitution. Unlike
13 the present case, there was no allegation that the criminal defendant was physically violent
14 toward the adult actors, raped the adult actors, or threatened the adult actors. Also, in *Freeman*,
15 unlike the present case, there is not evidence that the adult actors acted under duress or coercion.

16 *Lofthus v. Long Beach Veterans Hosp.* (C.D. 2016), which is relied upon by plaintiff, is
17 not persuasive. *Lofthus*, concerns a pro se prisoner who claimed that an involuntary detention
18 under 5151 constituted “trafficking.” The court noted that the complaint “contain[ed] disjointed
19 factual allegations,” and that the pro se litigant’s disjointed allegations failed to state a claim for
20 trafficking.

21 In sum, the FAC adequately alleges that human trafficking occurred in violation of the
22 TVPA.

23 III. Anthem’s Liability

24 a. Intent

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1 A violation of the Penal Code requires an offender to act “with the intent to obtain forced
2 labor or services” or “with the intent to effect or maintain a violation of” specified Penal Code
3 provisions. (Pen Code, § 236.1.)

4 Even if the alleged acts constitute human trafficking, Anthem contends that the FAC fails
5 to allege Anthem’s intent to commit such acts. However, the facts in the FAC suggest that
6 Anthem knew of Gutstadt’s exploitation of Koons and willfully benefitted from it by actively
7 continuing to support Gutstadt and profiting from works involving Koons. (FAC ¶¶ 270-276.)
8 For pleading purposes, this supports an inference that Anthem acted “with the intent to obtain
9 forced labor or services.”

10 *J.C. v. Choice Hotels Int’l, Inc.*, 2020 U.S. Dist. LEXIS 99252, at *2-5 (N.D. Cal. June 5,
11 2020), which Anthem relies upon, is distinguishable. *J.C.* concerned a third party Hotel where
12 plaintiff stayed, and the court found that the plaintiff failed to sufficiently allege the intent
13 element. While the hotels in *J.C.* provided standard services without knowledge of specific
14 trafficking, it has been alleged that Anthem had an ongoing employment relationship with both
15 the trafficker and victim, with actual knowledge of misconduct and specific financial benefits it
16 derived from trafficking-produced content

17 **b. Joint Employer**

18 In determining whether an entity is an employer, courts “consider the ‘totality of
19 circumstances’ that reflect upon the nature of the work relationship of the parties, with emphasis
20 upon the extent to which the defendant controls the plaintiff’s performance of employment
21 duties.” (*Vernon v. State of California* (2004) 116 Cal.App.4th 114, 124.) “The ‘right to control’
22 the employment relationship which is essential to subject the defendant to liability is evaluated
23 by focusing on ‘an examination of defendant’s role with respect to the right to hire, fire, transfer,
24 promote, discipline, set the terms, conditions and privileges of employment, train and pay the
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1 plaintiff.” (*Id.* at p. 128, quoting *Lee v. Mobile County Comm'n* (S.D.Ala. 1995) 954 F.Supp.
2 1540, 1545.) This is an inherently fact-intensive inquiry.

3 Anthem argues that there are no allegations supporting the theory that Anthem and Audio
4 Up were Koons’ joint employers. However, Koons has alleged that Anthem controlled her
5 professional opportunities and working conditions. (See FAC ¶¶ 249, 257-259.) These facts
6 sufficiently support the inference of an employment relationship for pleading purposes.

7 **c. Vicarious Liability**

8 “Under the doctrine of respondeat superior, an employer is vicariously liable for his
9 employee's torts committed within the scope of the employment.” (*Perez v. Van Groningen &*
10 *Sons* (1986) 41 Cal.3d 962, 967.) Wrongdoing is considered within the scope of employment if
11 “in the context of the particular enterprise an employee's conduct is not so unusual or startling
12 that it would seem unfair to include the loss resulting from it among other costs of the employer's
13 business.” (*Rodgers v. Kemper Constr. Co.* (1975) 50 Cal.App.3d 608, 619.) “In California, the
14 scope of employment has been interpreted broadly under the respondeat superior doctrine.”
15 (*Farmers Ins. Group v. County of Santa Clara* (1995) 11 Cal.4th 992, 1004.) Thus, “[t]he fact
16 that an employee is not engaged in the ultimate object of his employment at the time of his
17 wrongful act does not preclude attribution of liability to an employer.” (*Alma W. v. Oakland*
18 *Unified School Dist.* (1981) 123 Cal.App.3d 133, 139.) “Ordinarily, the determination whether
19 an employee has acted within the scope of employment presents a question of fact.” (*Farmers,*
20 *supra*, 11 Cal.4th at p. 1019.)

21 As discussed above, the FAC contains facts showing that Anthem knew of Gutstadt’s
22 actions yet continued to support Gutstadt and profit from works involving Koons. This raises an
23 inference that Gutstadt’s acts served Anthem and were within the scope of employment. Even if
24 Gutstadt also acted for his personal gratification, “where the employee is combining his own
25 business with that of his employer, or attending to both at substantially the same time, no nice

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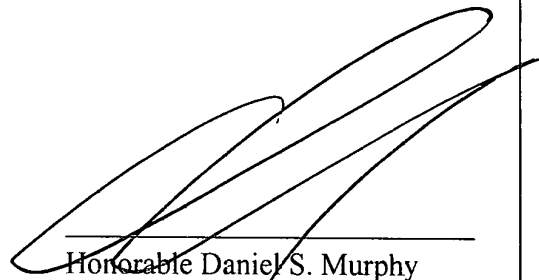
1 inquiry will be made as to which business he was actually engaged in at the time of injury, unless
2 it clearly appears that neither directly nor indirectly could he have been serving his employer.”
3 (*Farmers, supra*, 11 Cal.4th at p. 1004.) The facts are sufficient to support an inference of
4 vicarious liability for pleading purposes.

5 In sum, the FAC pleads sufficient facts to support a violation of the CTVPA.

6 **CONCLUSION**

7 Defendant Anthem Entertainment L.P.’s demurrer is OVERRULED. Anthem to file
8 within 20 days of this order.

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12 DATED: August 8, 2025

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14 _____
15 Honorable Daniel S. Murphy
16 Judge, Los Angeles Superior Court

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