SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Civil Division

Southwest District, Torrance Courthouse, Department B

22TRCV01604 April 28, 2026
JULIA MISLEY vs DOE 1, et al. 4:25 PM

Judge: Honorable Patricia A. Young CSR: None
Judicial Assistant: M. Milligan ERM: None
Courtroom Assistant: C. Monroe Deputy Sheriff: None

APPEARANCES:

For Plaintiff(s): No Appearances

For Defendant(s): No Appearances

NATURE OF PROCEEDINGS: Court Order re Ruling on Submitted Matter

The Court, having taken the matter under submission on 3/17/2026 for hearing on Motion for Summary Judgment or, in the Alternative, Summary Adjudication, now rules as follows:

Hearing Dates: December 18, 2025 and January 28, 2026

Moving Parties: Defendant Steven Tyler
Responding Party: Plaintiff Julia Misley

Motion for Summary Judgment or, in the Alternative, Summary Adjudication

INTRODUCTION

Defendant Steven Tyler requests summary judgment in his favor and against plaintiff. Alternatively, he requests summary adjudication as to all claims occurring outside of California. The Court considered all papers filed in support of and in opposition to the motion, as well as the arguments presented at the hearings on December 18, 2025 and January 28, 2026. The motion for summary judgment is DENIED. The motion for summary adjudication is GRANTED with respect to the claims that occurred outside of California.

PROCEDURAL HISTORY

On December 27, 2022, plaintiff Julia Misley, formerly known as Julia Holcomb, filed a complaint against defendant Doe 1 and Does 2 through 50 for (1) sexual battery, (2) sexual assault, and (3) intentional infliction of emotional distress ("IIED").

On February 1, 2023, the Court granted plaintiff's application for an order approving certificates of merit and granting permission to amend the complaint to name defendant Doe 1. Plaintiff filed a first amended complaint naming Steven Victor Tallarico aka Steven Tyler as defendant.

On March 28, 2023, defendant Tyler answered.

On March 12, 2024, the Court granted defendant's special motion to strike in part as to the IIED claim, striking the portions of the claim based upon the publication of Aerosmith's and defendant's books/memoirs.

On April 4, 2025, defendant filed an amended answer.

On June 4, 2025, defendant filed the motion for summary judgment.

On August 6, 2025, plaintiff filed her opposition to the motion.

On August 15, 2025, defendant filed his reply in support of the motion.

On August 27, 2025, the Court authorized supplemental briefing regarding the motion for summary judgment.

On September 9, 2025, defendant filed a supplemental statement in support of his motion.

On September 16, 2025, plaintiff filed an opposition to defendant's supplemental statement.

On September 23, 2025, defendant filed a reply in support of his supplemental statement.

On September 20, 2025, Judge Tamara Hall recused herself from this case and it was reassigned to Judge Patricia A. Young.

On December 18, 2025, the Court held a hearing on the motion for summary judgment and took the matter under submission.

On January 22, 2026, at a hearing on another motion, the Court raised concerns regarding the motion for summary judgment. Specifically, the Court questioned whether the pleadings were appropriate given that the complaint commingles allegations of sexual abuse that occurred in different states with different laws governing those acts under one claim. The Court ordered

the parties to meet and confer about how best to move forward considering the Court's concerns. The Court took the motion for summary judgment out from under submission.

On January 28, 2026, the parties presented argument on whether the pleadings should be amended or whether the Court could rule on the motion for summary judgment as filed. The Court agreed with defendant's argument that the pleadings need not be amended and ordered supplemental briefing limited to the age of consent and applicable statute of limitations for childhood sexual abuse in Washington, Oregon, and Massachusetts.

On March 6, 2026, plaintiff filed her supplemental opposition to the motion for summary judgment.

On March 13, 2026, defendant filed his supplemental reply.

On March 17, 2026, at a non-appearance case review upon receipt of all briefs, the Court took the motion under submission.

FACTS

Plaintiff was born in October 1957 in Portland, Oregon. Defendant's Undisputed Material Facts ("DUMF") 1. Plaintiff wanted to meet a rock star, fall in love, and get married. DUMF 4. Her friend Pennie would take her to concerts to help her meet rock stars. DUMF 6. In November 1973, when plaintiff was 16 and living in Oregon, she went to see Aerosmith perform in Portland, Oregon. DUMF 7. Plaintiff met defendant after the concert. DUMF 8. Defendant was 25. Plaintiff's Additional Material Facts ("PAMF") 69. Plaintiff was enamored with defendant when they met. DUMF 5. Plaintiff and defendant began a sexual relationship the night they met in Oregon. DUMF 9. Plaintiff immediately told her mother that she had met defendant and stayed the night in his hotel, and that he wanted plaintiff to go to Seattle to see him again; her mother was okay with it. Ex. 7 at 143:22-144:6. The relationship continued when plaintiff went to the Aerosmith concert in Seattle, Washington the next night. DUMF 10; PAMF 72. They engaged in sexual conduct in Washington. PAMF 72.

By June 1974, plaintiff and defendant moved into an apartment together in Boston, Massachusetts. DUMF 11. Plaintiff alleges that when the parties were living together in Massachusetts, when she was still 16, the parties visited California and engaged in sex in a hotel, including in the public hotel hot tub. DUMF 18, 39. By June 1975, plaintiff and defendant were engaged to be married, expecting a child, and still living together in Massachusetts. DUMF 12. They visited with plaintiff's family in Oregon where they celebrated the engagement and pregnancy. Ex. 7 at 158:1-160:1.

Plaintiff turned 18 in October 1975. DUMF 2. On October 23, 1975, when plaintiff was 18, there was an apartment fire where plaintiff experienced significant smoke inhalation. DUMF 13. Thereafter, plaintiff's pregnancy was terminated. DUMF 14. Plaintiff and defendant continued to live together in Boston until December 1976, when plaintiff was 19; then plaintiff returned to Oregon. DUMF 15. Plaintiff experienced psychological trauma and nightmares after the relationship ended and she moved back home. DUMF 29.

In 1980, plaintiff told her now-husband about her relationship with defendant and the abortion. DUMF 30. In 1997, *Walk This Way*, Aerosmith's memoir, was published. DUMF 19. After reading it, plaintiff's husband told her she should take legal action against defendant. DUMF 20. In 2011, defendant published his personal memoir, *Does the Noise in My Head Bother You?* DUMF 21. After reading it, plaintiff's husband again told her she should take legal action. DUMF 22. Plaintiff commenced this action in December 2022, when she was 65. DUMF 34.

Plaintiff is not and never has been a resident of California. DUMF 36. During the relevant timeframe, defendant lived in Massachusetts. DUMF 37.

STANDARD OF REVIEW

The purpose of a motion for summary judgment or summary adjudication "is to provide courts with a mechanism to cut through the parties' pleadings in order to determine whether, despite their allegations, trial is in fact necessary to resolve their dispute." *Aguilar v. Atlantic Richfield Co.* (2001) 25 Cal.4th 826, 843. "Code of Civil Procedure section 437c, subdivision (c), requires the trial judge to grant summary judgment if all the evidence submitted, and 'all inferences reasonably deducible from the evidence' and uncontradicted by other inferences or evidence, show that there is no triable issue as to any material fact and that the moving party is entitled to judgment as a matter of law." *Adler v. Manor Healthcare Corp.* (1992) 7 Cal.App.4th 1110, 1119.

"On a motion for summary judgment, the initial burden is always on the moving party to make a prima facie showing that there are no triable issues of material fact." *Scalf v. D. B. Log Homes, Inc.* (2005) 128 Cal.App.4th 1510, 1519. A defendant moving for summary judgment or summary adjudication "has met his or her burden of showing that a cause of action has no merit if the party has shown that one or more elements of the cause of action . . . cannot be established, or that there is a complete defense to the cause of action." CCP § 437c(p)(2). "Once the defendant . . . has met that burden, the burden shifts to the plaintiff . . . to show that a triable issue of one or more material facts exists as to the cause of action or a defense thereto." CCP §

437c(p)(2).

"When deciding whether to grant summary judgment, the court must consider all of the evidence set forth in the papers (except evidence to which the court has sustained an objection), as well as all reasonable inferences that may be drawn from that evidence, in the light most favorable to the party opposing summary judgment." *Avivi v. Centro Medico Urgente Medical Center* (2008) 159 Cal.App.4th 463, 467; CCP §437c(c).

"[A]ny doubts as to the propriety of granting a summary judgment motion should be resolved in favor of the party opposing the motion." *Reid v. Google, Inc.* (2010) 50 Cal.4th 512, 535 (citation omitted).

ANALYSIS

Plaintiff filed her claims pursuant to California Code of Civil Procedure section 340.1 for the childhood sexual assault she suffered at the hands of defendant. FAC, ¶ 4. She alleges that the childhood sexual assault occurred in numerous states around the country, including California. Id., ¶ 5.

Divisibility of Claims

At the outset, the parties disagree on whether the claims are divisible. Plaintiff's complaint contains allegations of childhood sexual assault that occurred in Oregon, Washington, Massachusetts, and California. The undisputed material facts show that the parties lived together in Massachusetts for about three years. Prior to moving in together, the parties engaged in a sexual encounter on one occasion in Oregon and on one occasion in Washington. After the parties moved in together, they engaged in a sexual encounter on one trip to California.

Plaintiff argues that her claims concern a continuing tort with an indivisible injury and that California law should apply to the entire course of conduct. Plaintiff further argues that defendant cannot move for summary adjudication of only parts of plaintiff's claims without stipulation or where the injury is indivisible due to continuous tortious conduct. Defendant argues that California law only applies to the conduct alleged to have occurred in California; alternatively, if the sexual abuse is viewed as an indivisible course of conduct, then Massachusetts law should apply because that is where the parties lived together and spent most of their time together. Defendant further argues that summary adjudication is appropriate on part of a cause of action when "separate and distinct wrongful acts" are lumped together in a single cause of action. *Edward Fineman Co. Superior Court* (1998) 66 Cal.App.4th 1110, 1118.

The Court does not find that plaintiff's causes of action must be assessed as a continuing tort with an indivisible injury. "The continuing violation doctrine applies to aggregate a series of small harms, any one of which may not be actionable on its own, into a single cause of action. The statute of limitations would run from the date of the last harmful act." *NBCUniversal Media, LLC v. Superior Ct.*, (2014) 225 Cal.App.4th 1222, 1237 n.10. Here, each allegation of sexual abuse that occurred in a different state may be (or may have been) actionable on its own. As discussed below, each of the four states has its own statute of limitations for claims based on childhood sexual abuse, and each statute of limitations includes its own definition of childhood sexual assault/abuse. Conduct that qualifies as childhood sexual abuse in California does not necessarily qualify as childhood sexual abuse in Massachusetts, particularly given their different age of consent laws. It is unnecessary for the Court to assess the allegations in this case – spanning across three years and four states – as one tort for sexual battery, one tort for sexual assault, and one tort for IIED.

Choice of Law and Statute of Limitations

Plaintiff seeks to apply California's age of consent law and statute of limitations to all conduct alleged in the complaint. Defendant argues that each state's own laws should apply to conduct that is alleged to have occurred there. Plaintiff argues that defendant waived a choice of law argument by failing to plead it as an affirmative defense. Plaintiff further argues that defendant cannot rely on statutes of limitations from other jurisdictions because he failed to specifically plead those in his answer. Defendant argues that he was not required to plead choice of law as an affirmative defense, and that under *Atkins v. St. Cecilia Catholic School* (2023) 90 Cal.App.5th 1328, 1341, he "should be permitted to introduce a defense in a summary judgment procedure so long as the opposing party has adequate notice and opportunity to respond."

Following the initial hearing on the motion for summary judgment, the Court tentatively determined that the causes of action are divisible and the conduct in each state should be viewed as a discrete tort. The Court allowed supplemental briefing to specifically address the age of consent and applicable statute of limitations in Oregon, Washington, and Massachusetts.

The Court finds that defendant was not required to allege choice of law as an affirmative defense, and that it may consider the argument as it was properly raised in the motion for summary judgment. The Court further finds that defendant is permitted to raise the other state statutes of limitations and that plaintiff has had adequate notice and opportunity to respond.

California applies its own law unless a party timely invokes the law of a foreign state. *Chen v. Los Angeles Truck Centers, LLC* (2019) 7 Cal.5th 862, 867. To resolve choice-of-law

questions, courts apply the "governmental interest" analysis. *McCann v. Foster Wheeler, LLC* (2010) 48 Cal.4th 68, 83. "First, the court determines whether the relevant law of each of the potentially affected jurisdictions with regard to the particular issue in question is the same or different. Second, if there is a difference, the court examines each jurisdiction's interest in the application of its own law under the circumstances of the particular case to determine whether a true conflict exists. Third, if the court finds that there is a true conflict, it carefully evaluates and compares the nature and strength of the interest of each jurisdiction in the application of its own law to determine which state's interest would be more impaired if its policy were subordinated to the policy of the other state and then ultimately applies the law of the state whose interest would be more impaired if its law were not applied." *Id.* at 87-88.

With respect to statutes of limitations, however, California does not necessarily apply the governmental interest analysis because it has enacted a "borrowing statute" that "borrows" the statute of another state when the cause of action arose in the other state and would be barred as untimely in that state. *McCann v. Foster Wheeler, LLC, supra*, 48 Cal.4th 68, 83. Code of Civil Procedure section 361 states: "When a cause of action has arisen in another State . . . and by the laws thereof an action thereon cannot there be maintained against a person by reason of the lapse of time, an action thereon shall not be maintained against him in this State, except in favor of one who has been a citizen of this State, and who has held the cause of action from the time it accrued." Civ. Proc. Code § 361. For purposes of the statute of limitations, "[a] cause of action for childhood sexual molestation generally accrues at the time of the alleged molestation." *Rubenstein v. Doe No. 1* (2017) 3 Cal.5th 903, 910.

Plaintiff's claims arise under AB 218, which modified Code of Civil Procedure section 340.1. On January 1, 2020, AB 218 took effect; it expressly revived claims based on childhood sexual assault that would otherwise be barred by the statute of limitations, regardless of when the abuse took place, for a three-year period that expired December 31, 2022. *West Contra Costa Unified School District v. Superior Court* (2024) 103 Cal.App.5th 1243, 1253-1254. Section 340.1(c) defines "childhood sexual assault" as any act committed against the plaintiff when the plaintiff was under the age of 18 and that would have been proscribed by certain current or former Penal Code statutes regarding sexual conduct. Civ. Proc. Code § 340.1(c). Plaintiff's claims for sexual battery, sexual assault, and IIED are all based on childhood sexual assault. Section 361, however, would bar an action in California if the cause of action arose in another state and cannot be maintained there based on that state's statute of limitations.

Massachusetts

Plaintiff made clear at the first hearing on the motion for summary judgment that the

childhood sexual abuse claims are based on plaintiff's inability to consent under the law based on her age at the time of the sexual acts. The majority of the parties' relationship occurred in Massachusetts, where they lived together for three years, from the time plaintiff was 16 until she was 19. Until the most recent round of briefing, the parties agreed that it was not a violation of Massachusetts law for the parties to engage in sexual relations with each other in Massachusetts because the age of consent in Massachusetts is, and was at all relevant times, 16.

While they lived together, however, the parties travelled to California on one occasion and engaged in sexual relations here during that trip. The age of consent in California is, and was at all relevant times, 18. *See* Pen. Code § 261.5. Thus, it was against the law for plaintiff and defendant to engage in sexual relations with each other in California because plaintiff was legally incapable of consenting to those acts.

Code of Civil Procedure section 340.1 allows plaintiff to bring claims based on childhood sexual assault, but it defines childhood sexual assault by reference to conduct proscribed by the Penal Code. In seeking to apply California law to the entire course of the parties' relationship, plaintiff seeks damages from defendant for conduct that occurred in Massachusetts that would violate the California Penal Code, but that was not unlawful in Massachusetts. Choice-of-law principles and Code of Civil Procedure section 361, however, direct this Court to apply Massachusetts law to plaintiff's claim based on sexual conduct that occurred there. For all conduct that occurred in Massachusetts, the cause of action arose there between non-California residents. California has no interest in applying its own law to out-of-state conduct between non-California residents.

In her supplemental opposition brief, however, plaintiff for the first time takes the position that the sexual relationship between her and defendant that took place in Massachusetts was unlawful and qualifies as childhood sexual abuse because it violated M.G.L. 272, § 4 (inducing one under the age of 18 "of chaste life to have unlawful sexual intercourse") and M.G.L. 272, § 35 (committing "any unnatural and lascivious act" with another person). Plaintiff also alleges that the sexual relationship was unlawful because defendant provided her with drugs before engaging in sexual relations with her and was her guardian, or led plaintiff to believe he was her guardian. Even if plaintiff could prove childhood sexual abuse under any of these theories, her claims are untimely.

Under Massachusetts law, tort claims based on sexual abuse of a minor shall commence within 35 years of the alleged acts or within seven years of time the victim discovered or reasonably should have discovered that an emotional or psychological injury or condition was caused by said act, whichever expires later. The time limit is tolled for a child until the child

reaches 18. M.G.L. 260, § 4C. "Sexual abuse" is defined by reference to several statutes, including M.G.L. 272, § 4 and M.G.L. 272, § 35, on which plaintiff relies. *See* M.G.L. 260, § 4C.

Plaintiff's suit was filed more than 35 years after the alleged acts and more than 35 years after she turned 18. To be timely, this suit must have been filed within seven years of the time plaintiff discovered or reasonably should have discovered that an emotional or psychological injury or condition was caused by her sexual relationship with defendant.

Defendant presented evidence that plaintiff discovered or reasonably should have discovered her emotional and psychological injuries caused by her sexual relationship with defendant more than seven years before she filed suit. Plaintiff testified that she experienced emotional distress contemporaneous to and in the years following the 1975 fire and abortion. DUMF 28. After their relationship ended in 1976, plaintiff returned to her mother's home, where she experienced psychological trauma and nightmares about the fire and abortion. DUMF 29, PAMF 116. For a long time, every night she would wake up with night terrors and was afraid to sleep because she knew she would have nightmares. She became very withdrawn and afraid of people, no longer trusting them. Ex. 8 at 277:24-278:25. Plaintiff suffered a great deal of emotional and mental trauma from the abortion that lasted throughout her life. PAMF 150.

In 1980, plaintiff told her now-husband about her relationship with defendant and that she had an abortion. Plaintiff's husband told her the relationship was abusive and shocking. Plaintiff experienced the psychological and emotional trauma of her relationship with defendant all over again. Ex. 7 at 38:9-40:11.

In 1997, plaintiff's husband, who is a lawyer, read *Walk This Way* and told plaintiff that he felt she had "endured sexual abuse that was an extreme violation of [her] dignity and [her] person" and that she should sue defendant over it. Ex. 8 at 297:16-298:16. Plaintiff chose not to take legal action at that time because she feared it would harm their children to learn about this part of her life and it would be traumatic for her to go through it. Because plaintiff's name was not mentioned in the book, she did not fear that her children would find out about her past simply from reading the book. Ex. 8 at 300:5-303:9.

In 2011, after reading *Does the Noise in My Head Bother You?*, plaintiff's husband was outraged about the descriptions of plaintiff's and defendant's sexual exploits, and the fact that plaintiff's name was mentioned in the back of the book. Her children learned about it, and she then told her children about this part of her past and living with defendant. Ex. 8 at 303:18-305:14. Plaintiff testified that she experienced personal trauma from the abortion and her

relationship with defendant that would repeat and increase at certain points in her life, such as when her children found out. And additional memories of sexual abuse resurfaced when plaintiff learned what defendant wrote in *Does the Noise in My Head Bother You?* Those memories were painful and humiliating. The memories that arose in 2011 were very disturbing to her; they caused her to have trouble sleeping. Ex. 7 at 115:11-123:3; Ex. 8 at 254:15-256:13. Plaintiff testified that she went through trauma every single day during "those years" (it is unclear whether plaintiff means at the time of the experiences or at the time the experiences became public in 2011). Ex. 8 at 318:8-21.

Plaintiff authored a news article that was published in May 2011, in which she recounts her relationship with defendant. She states that she was a young girl who experienced trauma and abuse from her relationship with defendant, that she was vulnerable to exploitation, and should not have been used as a sexual plaything. Ex. 9.

Plaintiff argues that when she discovered the causal connection between her trauma and the childhood sexual abuse should be a question for jurors. Plaintiff, however, must present evidence that she did not discover, nor should have discovered, the causal connection until December 2015, which is seven years before she filed suit. *See Doe v. Creighton* (2003) 439 Mass. 281, 283 ("A plaintiff who invokes the discovery rule by claiming that her delay in filing suit stems from a failure to recognize the cause of her injuries bears the burden of proving both an actual lack of causal knowledge and the objective reasonableness of that lack of knowledge."). At most, plaintiff has presented evidence that, after filing suit, she is still only beginning to understand how bad the abusive relationship really was. PAMF 152. Discovering "how bad" the abuse was, however, is not the triggering event for the purposes of the statute of limitations. *See Phinney v. Morgan* (1995) 39 Mass.App.Ct. 202, 208-209 (explaining that, in a childhood sexual abuse case, knowledge of emotional distress caused by the abuse is sufficient to trigger the statute of limitations, and the plaintiff does not need to apprehend the full extent of the injury).

Plaintiff seeks damages for "great pain of mind and body, shock, emotional distress, [and] physical manifestations of emotional distress including embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life." FAC, ¶ 39. Defendant has shown that plaintiff experienced emotional distress and physical manifestations of emotional distress, and connected those to the trauma caused by her relationship with defendant, in 1975, 1976, 1980, 1997, and 2011. All those events happened well before December 2015. Plaintiff argues that she may have misidentified her harm as being attributable to things other than sexual abuse, but

her own testimony attributes her harm to the entire relationship between her and defendant, including the sexual abuse.

Defendant has met his initial burden of showing that there are no triable issues of material fact with respect to the application of the statute of limitations. The burden shifts to plaintiff to show a triable issue of material fact regarding delayed discovery. She has failed to do so. "Although the question when the cause of action accrued typically presents a question of fact, when the facts regarding discovery of harm are undisputed, the question may be decided as [a] matter of law." *Vinci v. Byers* (2005) 65 Mass.App.Ct. 135, 139; *see S.M. v. Los Angeles Unified School Dist.* (2010) 184 Cal.App.4th 712, 722 (affirming grant of summary judgment and recognizing that while the delayed discovery of a cause of action for childhood sexual abuse is a factual question, plaintiff presented no triable issue of fact on that point).

To the extent plaintiff's claims are based on childhood sexual abuse that occurred in Massachusetts, those claims are barred by M.G.L. 260, § 4C. Under Code of Civil Procedure section 361, they cannot be brought in California.

Oregon

Plaintiff lived in Oregon when she met defendant there at an Aerosmith concert and they engaged in sexual relations when plaintiff was 16 and defendant was 25. Defendant, who did not reside in Oregon, later visited plaintiff and her family in Oregon. Neither party was a California resident. Plaintiff's claims for sexual battery, sexual assault, and IIED are based, in part, on the sexual conduct that occurred in Oregon.

The parties agree that, under Oregon law, plaintiff had to commence her action prior to turning 40, or five years from the date she discovered or should have discovered the causal connection between the abuse and the injury, whichever is later. *See* Or. Laws 2015, ch. 98 § 2 (HB 2206) (setting forth version of O.R.S. § 12.117 in effect when plaintiff filed suit in December 2022). It is undisputed that plaintiff filed this suit when she was 65. As discussed, defendant has presented evidence that plaintiff was aware of the causal connection between her sexual relationship with defendant – which began in Oregon – and the injury in 1975, 1976, 1980, 1997, and 2011. Plaintiff has failed to present any evidence that she did not discover, nor should have discovered, the causal connection until December 2017, which is five years before she filed suit.

Plaintiff argues that Oregon's statute of limitations is tolled because defendant does not reside in Oregon, citing O.R.S. § 12.150. O.R.S. § 12.150 is a tolling statue that applies when a

cause of action accrues against a person who is absent from the state or concealed within it and cannot be served with process. *See* O.R.S. § 12.150. In applying Code of Civil Procedure section 361 to "borrow" Oregon's statute of limitations on claims of childhood sexual assault, the Court is not also required to "borrow" Oregon's statutory tolling provisions. Rather, the Court looks to whether the tolling provision is "inherent in, or inseparable from" the statute of limitations. *Professional Collection Consultants v. Lujan* (2018) 23 Cal.App.5th 685, 693 (declining to apply Delaware's nonresident tolling statute when applying Delaware's statute of limitations because the "tolling provision is not inherent in, or inseparable from, its statute of limitations"); *see Ginise v. Zaharia* (1964) 224 Cal.App.2d 153, 158 (holding that Code of Civil Procedure section 361 does not require a court to apply a Connecticut rule for commencement of actions "in the absence of some statutory incorporation of that rule, by Connecticut, into its statute of limitations"). Unlike the delayed discovery provision, which this Court has applied because it is inherent in O.R.S. § 12.117, Oregon's tolling provision set forth in O.R.S. § 12.150 is not inherent in or inseparable from the statute of limitations set forth in O.R.S. § 12.117, therefore, the Court will not apply it.

The Court finds that to the extent plaintiff's causes of action are based on conduct occurring in Oregon, they are barred by Oregon's statute of limitations and cannot be maintained in California. *See* Civ. Proc. Code § 361.

Washington

Plaintiff lived in Oregon when she travelled to Washington to meet defendant at an Aerosmith concert the night after they first met. They engaged in sexual relations in Washington on one occasion when plaintiff was 16 and defendant was 25. Neither party was a California resident. Plaintiff's claims are based, in part, on the sexual conduct that occurred in Washington.

Under Washington law, the applicable statute of limitations for claims based on intentional conduct for injury suffered as a result of childhood sexual abuse that occurred before June 6, 2024, is the later of: (a) within three years of the act; (b) within three years of the time the victim discovered or reasonably should have discovered that the injury was caused by said act; or (c) within three years of the time the victim discovered that the act caused the injury. The statute of limitations is tolled for a child until the child reaches the age of 18. RCW 4.16.340(1). "Childhood sexual abuse" is defined to mean "any act committed by the defendant against the complainant who was less than eighteen years of age at the time of the act and which act would have been a violation of chapter 9A.44 RCW or RCW 9.68A.040 or prior laws of similar effect at the time the act was committed." RCW 4.16.340(5). The parties agree that in 1973, when the Washington sexual conduct occurred, the age of consent in Washington was 18.

Defendant argues that the Washington statute of limitations has run. This case was not filed within three years of any complained of act or within three years of plaintiff turning 18. As discussed, defendant has presented evidence that plaintiff did not file suit within three years of the time that she discovered or reasonably should have discovered that her injuries were caused by her sexual relationship with defendant, which began in Oregon and continued into Washington the next day. Plaintiff has failed to present any evidence that she did not discover, nor should have discovered, the causal connection until December 2019, which is three years before she filed suit.

Plaintiff focuses on RCW 4.16.340(1)(c), which states that childhood sexual abuse claims must be commenced "[w]ithin three years of the time the victim discovered that the act caused the injury for which the claim is brought." "Subsection (c), unlike subsection (b), does not contain language requiring that a victim 'reasonably should have discovered that the injury or condition was caused by said act.'" *Wolf v. State* (2023) 2 Wash.3d 93, 107 (quoting RCW 4.16.340(1)(b)). "Subsection (c) generally applies in two instances. The first is when a victim is aware of the abuse and that they suffered harm as a result, but the victim discovers a new and qualitatively different injury from the abuse. The second is when the victim is aware of the abuse and injury but discovers a causal connection of which they were previously unaware between the wrongful act and the harm." *Id.* at 105 (citations omitted).

It is undisputed that in 2011 and prior thereto, plaintiff was aware of the abuse, the injury, and the causal connection between them. Plaintiff argues that her knowledge of harm focuses on defendant's treatment of her in their time together and her coerced abortion, and states that "those events and experiences do not relate to the sexual assaults." Pet.'s Supp. Reply at 3. Setting aside plaintiff's emotional distress from the abortion because it did not arise from the sexual assault in Washington, it is hard to conceive how defendant's treatment of plaintiff in their time together does not include their sexual relationship, which began in Oregon and continued the next day in Washington when plaintiff was 16 and defendant was 25. In 1980, when plaintiff's husband told her the relationship with defendant was abusive, plaintiff experienced the psychological and emotional trauma of her relationship with defendant all over again. Ex. 7 at 38:9-40:11. In 1997, when plaintiff's husband told her that she had endured sexual abuse and should sue, plaintiff chose not to because it would be traumatic to do so (Ex. 8 at 297:16-298:16, 300:5-303:9); not because she failed to recognize a causal connection between her trauma and the abuse. In 2011, when repressed memories of the sexual abuse resurfaced, they disturbed plaintiff, were painful, caused humiliation, angered her, disrupted her sleep, and she experienced trauma from her relationship with defendant daily for years. Ex. 7 at 115:11-123:3; Ex. 8 at 254:15-256:13, 318:8-21. In May 2011, plaintiff authored an article in which she stated that she experienced trauma and abuse from her relationship with defendant, that she was

vulnerable to exploitation, and that she should not have been used as a sexual plaything. Ex. 9.

Considering the uncontradicted evidence showing that plaintiff was aware of the causal connection between the childhood sexual abuse and the harm for which she seeks relief, to survive the Washington statute of limitations under subsection (c), plaintiff must present evidence of a new and qualitatively different injury from what she experienced by 2011, which she did not discover before December 2019. She has failed to do so.

To the extent plaintiff's claims are based on childhood sexual abuse that occurred in Washington, they are barred by Washington's statute of limitations and cannot be maintained in California. *See* Civ. Proc. Code § 361.

Intentional Infliction of Emotional Distress

Defendant argues that, stripping away all conduct that occurred in Massachusetts, Washington, and Oregon because it is barred by the applicable statute of limitations, defendant is entitled to summary judgment on plaintiff's IIED claim because it is based only on childhood sexual assault that occurred when the parties visited California in 1974. (The Court previously dismissed the portion of plaintiff's IIED claim based on the publication of Tyler's books/memoirs.)

The tort of intentional infliction of emotional distress is comprised of three elements: (1) extreme and outrageous conduct by the defendant with the intention of causing, or reckless disregard of the probability of causing, emotional distress; (2) the plaintiff suffered severe or extreme emotional distress; and (3) the plaintiff's injuries were actually and proximately caused by the defendant's outrageous conduct. *McMahon v. Craig* (2009) 176 Cal.App.4th 222, 234. "In order to meet the first requirement of the tort, the alleged conduct . . . must be so extreme as to exceed all bounds of that usually tolerated in a civilized community." *Id.* at 234-35. Whether conduct is sufficiently extreme and outrageous so as to be actionable may be determined as a matter of law. *Cochran v. Cochran* (1998) 65 Cal. App. 4th 488, 494.

The Court has been presented with evidence that, in 1974, when plaintiff was 16 and defendant was in his 20s, the parties engaged in sexual relations in a hotel in Beverly Hills. Plaintiff testified that it was one of the worst sexual acts she remembers. The parties were having intercourse in the hotel room when defendant decided he wanted to have sex in the public hotel hot tub. He grabbed plaintiff, who was naked, and ran with her out of the room and to the pool and hot tub area. The parties had sex in the hot tub. Plaintiff was still naked on the way back to the room when they encountered other people in the elevator. Plaintiff testified that she

felt completely humiliated and violated, and was angry with defendant about it at the time. She repressed the memory until 2011. Ex. 7 at 115:11-123:3. When the repressed memory resurfaced, plaintiff was disturbed, humiliated, angered, and it disrupted her sleep; she also experienced trauma from it (either the occurrence or the memory) daily for years. Ex. 7 at 115:11-123:3; Ex. 8 at 254:15-256:13, 318:8-21.

Defendant argues that this evidence, as a matter of law, cannot constitute IIED. The Court disagrees. If a jury accepts plaintiff's testimony as credible, plaintiff and defendant having sex when she was legally incapable of consenting qualifies as an instance of childhood sexual assault. The Court cannot say as a matter of law that defendant engaging in an act of childhood sexual assault does not qualify as extreme and outrageous conduct with reckless disregard of the probability of causing plaintiff emotional distress. Plaintiff has presented sufficient evidence to establish that she suffered severe or extreme emotional distress that was caused, at least in part, by this incident. Whether plaintiff can prevail on this claim is a question of fact for the jury to decide.

Constitutionality of Code of Civil Procedure Section 340.1

Finally, defendant argues that the revival of childhood sexual assault claims permitted by AB 218's amendments to Code of Civil Procedure section 340.1 is unconstitutional because it violates the ex post facto and due process clauses of the United States Constitution. Plaintiff asserts that this argument has been rejected by numerous courts.

The Court finds that defendant has not shown that section 340.1 violates the ex post facto clause. In *Coats v. New Haven Unified School Dist.* (2020) 46 Cal.App.5th 415, the court rejected defendant's same argument, holding "that a statute reviving the limitations period for a common law tort cause of action, thereby allowing the plaintiff to seek punitive damages, does not implicate the ex post facto doctrine." *Id.* at 427. In a footnote, defendant states that *Coats* did not address the imposition of treble damages. Treble damages are not implicated in this case either.

Nor has defendant shown that section 340.1 violates the due process clause. In *Deutsch v. Masonic Homes of California, Inc.* (2008) 164 Cal.App.4th 748, the court explained that a defendant "has no constitutional right to be free of the obligation to defend stale claims" and held that "because section 340.1(c) does not deprive a defendant of a protected liberty or property interest encompassed by the Fourteenth Amendment, it is not unconstitutional [on its face] under the due process clause." *Id.* at 760. Defendant argues that section 340.1's revival of old claims limits his ability to gather evidence in defense of the claims, citing plaintiff's mother and

stepfather as examples of witnesses who have suffered memory loss or other health problems. The court in *Deutsch* rejected a similar argument, finding that the due process clause was not implicated in a civil case where the passage of time has rendered evidence difficult of even impossible to rebut. *Id.* at 761-765.

CONCLUSION

The motion for summary judgment is DENIED.

The motion for summary adjudication is GRANTED IN PART. Defendant is entitled to summary adjudication on those parts of plaintiff's sexual battery, sexual assault, and IIED causes of action that are based on acts that occurred outside of California. *See Edward Fineman Co. Superior Court, supra*, 66 Cal.App.4th 1110, 1118 (stating that summary adjudication is appropriate on part of a cause of action when "separate and distinct wrongful acts" are lumped together in a single cause of action).

The motion for summary adjudication of the IIED claim is DENIED.

Plaintiff's objection nos. 1-28 to defendant's evidence submitted in support of the motion for summary judgment are OVERRULED.

Defendant's objection nos. 1-9, 15-17 to plaintiff's evidence submitted in support of the opposition to the motion for summary judgment are SUSTAINED. Objection nos. 10-14 are OVERRULED.

Defendant's supplemental objection nos. 1-4, 8-18 to plaintiff's opposition to defendant's supplemental statement in support of motion for summary judgment are SUSTAINED. Objection nos. 5-7 are MOOT.

Plaintiff's motion for pre-trial discovery is restored to calendar and is set for hearing on May 13, 2026 at 8:30am.

The clerk shall give notice.

Hearing on Motion - Other for Pre-Trial Discovery is scheduled for 05/13/2026 at 08:30 AM in Department B at Torrance Courthouse.

Certificate of Service is attached.