

**Judge Mosbarger – Law & Motion – Wednesday, July 9, 2025 @ 9:00 AM  
TENTATIVE RULINGS**

**1-2. 22CV00073 DUBUG NO 7, INC, A CALIFORNIA CORPORATION V. SODERLING, JAY ET AL**

*EVENTS: (1) Motion to be Relieved as Counsel (for Jay Soderling)*

*(2) Motion to be Relieved as Counsel (for Aurora Ridge Homes, Inc.)*

The Motions to be Relieved as Counsel are granted, effective upon the filing of the proof of service of the signed orders upon the clients. The Court will sign the forms of order submitted by counsel.

**3. 23CV02360 NORTHERN CALIFORNIA COLLECTION SERVICE, INC V. MCCLARREN, MARK A**

*EVENT: Order of Examination (Mark A. McClarren)*

The Court has received the Notice of Bankruptcy filed by the Judgment Debtor May 5, 2025, and this matter is therefore stayed. The hearing on July 9, 2025 is off calendar.

**4-5. 23CV02730 FERGUSON, JANET V. ROSE, PETER JIM ET AL**

*EVENTS: (1) Defendants Peter Jim Rose and Thomasine Pauly Rose's Motion for Summary Judgment*

*(2) Defendants Peter Jim Rose and Thomasine Pauly Rose's Motion for Summary Adjudication*

Defendant Peter Jim Rose's  
Motion for Summary Judgment

Plaintiff has failed to submit a Memorandum of Points and Authorities in relation to the Motion for Summary Judgment, which is required under California Rules of Court Rule 3.1350(e)(1). In the absence of any legal authority or argument related to the claim for general negligence as to Defendant Peter Rose, the Motion for Summary Judgment is granted. Defendant shall submit a form of order within two weeks.

Defendants Peter Jim Rose and Thomasine Pauly Rose's  
Motion for Summary Adjudication

In regard to the parties' objections to evidence, the Court finds that the objections as presented fail to comply with Rules of Court Rule 3.1354(b) relating to the required format of the objections and both Plaintiff's and Defendants' objections are therefore overruled. The Court finds that a triable issue of material fact exists as to whether Defendants' conduct rises to levels of extreme indifference or conscious disregard for Plaintiff's safety [UMF Nos. 7, 18-19; Additional UMF Nos. 5-7]. The Motion for Summary

Adjudication is denied. Counsel for the Plaintiff shall submit a form of order within two weeks.

**6. 24CV00795 STIEFVATER, RYAN J ET AL V. STIEFVATER, GARY G ET AL**

*EVENT: Plaintiff's Amended Motion to Compel Records Sought in Deposition Subpoena for Personal Appearance and Production of Documents of Patrick Hoffman*

The Motion is substantively unopposed and is granted. The Court orders that all documents responsive to the Document Request be produced no later than the time of Patrick Hoffman's deposition on July 14, 2025 at 9:30 a.m., and the Court declines to prohibit the production of the responsive documents prior to the date and time of the deposition. The Court will utilize the form of order submitted.

**7. 24CV03247 SHILLER, SUSAN V. FARHAN, SAIF, MD ET AL**

*EVENT: Plaintiff's Motion for Preference*

The Motion is unopposed and is granted. The Court vacates the Mandatory Settlement Conference on April 29, 2026, the Trial Readiness Conference on August 13, 2026, and the Jury Trial on August 17, 2026 and sets the following dates: Mandatory Settlement Conference specially set on Tuesday, October 14, 2025 at 1:30 p.m. with Judge Benson via Zoom; Trial Readiness Conference on November 13, 2025 at 1:30 p.m.; and Jury Trial on November 17, 2025 at 8:00 a.m. with a 7 day estimate. The Court will sign the form of order submitted by Plaintiff.

**8. 25CV01221 VETTER, KRISTOPHER GUY V. CITY OF CHICO ET AL**

*EVENT: Defendant City of Chico's Demurrer to Plaintiff's Complaint*

As an initial matter, the Court acknowledges Defendant City of Chico's ("the City" herein) objection to the Court's consideration of the untimely Opposition. However, the Court in its discretion, has considered the arguments therein. The Court notes that the City's Demurrer is in violation of California Rules of Court Rule 3.1320(d), but again in the Court's discretion, this Demurrer is being considered on its merits, rather than being overruled on a procedural deficiency.

Compliance with the California Tort Claims Act (*Government Code* §945.4) is a proper basis for demurrer. *State of California v. Superior Court* (2004) 32 Cal.4th 1234. Here, Plaintiff's allegations in this regard are found at Page 11, Lines 12-18 and state:

"Failure to Address Mental Health Needs: Despite Plaintiff's repeated expressions of concern regarding his mental health and specific PTSD triggers, the Defendants failed to coordinate a timely mental appointment. On October 11, 2024, the Plaintiff filed his tort claim in person with the City Clerk. By October 18, 2024, a third-party claims investigator (Sedgwick) denied his claim without thoroughly investigating the

allegations. The formal denial, received on October 28, 2024, further underscores the Defendants' inexcusable delay and disregard."

The Court finds these allegations insufficient as they do not allow the Court to make a determination (or inference) that Plaintiff's "tort claim" included the necessary information to satisfy the requirements of *Government Code* §910 and put the City on notice of the allegations now presented in this instant Complaint. The Demurrer is thus sustained on this basis with leave to amend.

The Court finds that in regard to the negligence cause(s) of action [negligence and negligent infliction of emotional distress], that Plaintiff has sufficiently plead duty [Complaint at pgs. 5:18-19; 6:15-16; and 7:11-13], including foreseeability [Complaint at pgs. 8:23-9:3], as well as causation [Complaint at pgs. 8:23-9:8]. Therefore, the Court concludes that Plaintiff has sufficiently pled a cause of action for negligence and the Demurrer is overruled.

While *Civil Code* §1714 establishes a general duty of care, it does not provide a sufficient statutory basis for direct negligence claims against California government entities. Liability must instead be grounded in a specific statutory provision or through vicarious liability for the acts of employees. See, *de Villers v. County of San Diego* (2007) 156 Cal.App.4th 238; *Eastburn v. Regional Fire Protection Authority* (2003), 31 Cal.4th 1175; *City of Los Angeles v. Superior Court* (2021), 62 Cal.App.5th 129. As such, the Demurrer to the Fourth Cause of Action for Property Violations pursuant to *Civil Code* §1714 is sustained with leave to amend.

While it is correct that *Government Code* §818 explicitly prohibits public entities from being held liable for punitive or exemplary damages, a Demurrer is not the proper mechanism to make this request. Rather, a motion to strike is the proper procedure to address improperly pleaded punitive damages claims, rather than a demurrer. Under California law, a demurrer challenges the sufficiency of an entire cause of action or defense, while a motion to strike can target specific portions of a pleading, such as a claim for punitive damages, without challenging the entire cause of action. *Code of Civil Procedure* §92(d) [explicitly allows motions to strike to remove improper content from a pleading, including claims for damages that are not supported by the allegations in the complaint]. Additionally, case law supports the use of motions to strike for challenging punitive damages claims. For example, in *PH II, Inc. v. Superior Court* (1995) 33 Cal.App.4th 1680, the court clarified that a motion to strike is the appropriate mechanism to challenge portions of a cause of action, such as punitive damages, when the defect is apparent on the face of the complaint. The Demurrer as to punitive damages is therefore overruled.

Demurrers for uncertainty are disfavored and will be "granted only if the pleading is so incomprehensible that a defendant cannot reasonably respond." *Lickiss v Financial Indus. Regulatory Auth.* (2012) 208 Cal.App.4th 1125, 1135. Additionally, because ambiguities can be clarified through discovery, courts will strictly construe demurrers for uncertainty. *Lickiss v Financial Indus. Regulatory Auth.*, *supra*; *Khoury v Maly's of Cal., Inc.* (1993) 14 Cal.App.4th 612, 616. Here, the Court finds that the Complaint is not so

incomprehensible that the City cannot reasonably respond and the Demurrer based on uncertainty is overruled.

Finally, the Court does not find the City's argument compelling in regard to the defect or misjoinder of parties pursuant to *Code of Civil Procedure* §430.10(d). Instead, the Court finds that Plaintiff has not failed to name an indispensable party as defined under *Code of Civil Procedure* §389 [someone whose absence would prevent the court from rendering an effective judgment or would seriously prejudice any party or the absent person's interests]. The Demurrer is overruled on this basis.

As indicated above, the Court grants leave to amend. Any amended Complaint shall be filed within 20 days' notice of this ruling. Counsel for the moving Defendant shall prepare and submit a revised form of order consistent with this ruling within two weeks.

**9-14. 25CV01669 CONNELL, ZACKARY V. CRAFT, SHEILA ET AL**

*EVENTS: (1) Defendant Sheila Craft's Motion to Quash Service of Summons*

*(2) Defendant Melissa Crick's Motion to Quash Service of Summons*

*(3) Defendant Sheila Craft's Amended Demurrer to Fourth Cause of Action for Sexual Harassment Under the Fair Employment and Housing Act*

*(4) Defendant Melissa Crick's Amended Demurrer to Fourth Cause of Action for Sexual Harassment Under the Fair Employment and Housing Act*

*(5) Defendant Sheila Craft's Motion to Strike Re: First Amended Complaint*

*(6) Defendant Melissa Crick's Motion to Strike Re: First Amended Complaint*

Defendant Sheila Craft and Defendant Melissa Crick's Motions to Quash Service of Summons are granted, the Court on the conflicting declarations finding that personal service of the Summons and Complaint were made by Plaintiff and therefore invalid. As to the remaining motions on calendar, based on the ruling above, the Court lacks jurisdiction over the Defendants and Defendant Sheila Craft and Defendant Melissa Crick's Amended Demurrers to Fourth Cause of Action for Sexual Harassment Under the Fair Employment and Housing Act and Defendant Sheila Craft and Defendant Melissa Crick's Motions to Strike Re: First Amended Complaint, are off calendar. Counsel for the Defendants shall submit a form of order consistent with this ruling within two weeks.

**15. 25MH00222 BUTTE COUNTY SHERIFF'S OFFICE V. HUDGINS, SEAN ROBERT**

*EVENT: Petition for Default and Order on Petition for Judicial Determination Re: Return of Firearm*

The Petition for Default and Order on Petition for Judicial Determination Re: Return of Firearm is granted. The Court will sign the form of order submitted by counsel and the Case Management Conference set for September 10, 2025 is vacated.