

**Judge Mosbarger – Law & Motion – Wednesday, December 24, 2025 @ 9:00 AM
TENTATIVE RULINGS**

1-2. 25CV01221 VETTER, KRISTOPHER GUY V. CITY OF CHICO ET AL

EVENTS: (1) Defendant City of Chico's Demurrer to Plaintiff's First Amended Complaint

(2) Defendant City of Chico's Motion to Strike Portions of Plaintiff's First Amended Complaint

As an initial matter, the Court in its discretion, has considered the untimely filed Opposition and the arguments therein.

In regard to Defendant City of Chico's ("the City" herein) Demurrer to Plaintiff's First Amended Complaint, the Court finds that the meet and confer obligations have been satisfied and finds no violation of either *Code of Civil Procedure* §§430.41 or 471.5.

As to the merits of the Demurrer, the Court finds that Defendant is correct that 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. The issue is whether *Government Code* §815.2 applies. In that regard, the Court finds that Plaintiff's First Amended Complaint fails to sufficiently allege vicarious liability for public employees pursuant to *Government Code* §§815.2 and/or 815.4 and therefore fails to satisfy the pleading requirements for a negligence causes of action against the City. The Demurrer to the Second Cause of Action For Alleged Negligence—Comprehensive Institutional Failure and Third Cause of Action for alleged Negligent Infliction of Emotional Distress is sustained with leave to amend. Any amended Complaint shall be filed within 20 days' notice of this Order. The Court will utilize the form of order submitted by counsel with modification as to the Court's granting of leave to amend.

As to Defendant City of Chico's Motion to Strike Portions of Plaintiff's First Amended Complaint, the Motion is unopposed and is granted. The Court strikes the following from the First Amended Complaint: "Punitive damages prayer for relief page 46, lines 23-28 and page 47, lines 1-6" and will sign the form of order submitted by counsel.

Finally, the Case Management Conference on January 28, 2026 is continued to March 25, 2026 at 10:30 a.m. Case Management Conference Statements are to be timely filed and served.

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3. **25PR00196 THE LOWRY REVOCABLE INTER VIVOS TRUST, DATED JANUARY 17, 2006**

EVENT: Mildred I. Buchanan's Motion for Summary Judgment on Petition to Enforce No-Contest Clause

Barbara A. Bowen's Request for Judicial Notice is granted. Mildred I. Buchanan's Request for Judicial Notice is denied (see below).

Barbara J. Bowen's Written Objections to Evidence are overruled as to Nos. 1 and 7, and sustained as to Nos. 2 [Secondary Evidence of Writing – *Evidence Code* §1521; Lacks Personal Knowledge and Foundation – *Evidence Code* §702(a-b); however, the Court notes that it is not precluding consideration of the actual Trust document which it has taken judicial notice of as part of Barbara J. Bowen's Petition, filed on February 24, 2025 at Exhibit "1"]; 3 [Secondary Evidence of Writing – *Evidence Code* §1521; Lacks Personal Knowledge and Foundation – *Evidence Code* §702(a-b); however, the Court notes that it is not precluding consideration of the actual Petition which it has taken judicial notice of as part of Barbara J. Bowen's Request for Judicial Notice, filed on December 3, 2025 at ¶1]; 4 [Secondary Evidence of Writing – *Evidence Code* §1521; Lacks Personal Knowledge and Foundation – *Evidence Code* §702(a-b); however, the Court notes that it is not precluding consideration of the actual Ruling which was filed in this action on August 27, 2025]; 5 [Secondary Evidence of Writing – *Evidence Code* §1521; Lacks Personal Knowledge and Foundation – *Evidence Code* §702(a-b); however, the Court notes that it is not precluding consideration of the April 24, 2025 Petition to Enforce No-Contest Clause filed by Mildred I. Buchanan which has taken judicial notice of as part of Barbara J. Bowen's Request for Judicial Notice, filed on December 3, 2025 at ¶2]; and 6 [Secondary Evidence of Writing – *Evidence Code* §1521; Lacks Personal Knowledge and Foundation – *Evidence Code* §702(a-b); however, the Court notes that it is not precluding consideration of the January 16, 2025 e-mail attached as Exhibit B to the Petition to Enforce No-Contest Clause filed by Mildred I. Buchanan on April 24, 2025, which the Court has taken judicial notice of as part of Barbara J. Bowen's Request for Judicial Notice, filed on December 3, 2025 at ¶2].

Additionally, the Court sustains Barbara J. Bowen's Written Objections to Petitioner's New Evidence Provided with Reply and has not considered (1) the Supplemental Declaration of Mildred I. Buchanan in Response to Opposition to Motion for Summary Judgment filed on December 12, 2025; (2) the Declaration of Christopher Q. Heckman Authenticating Exhibits Attached to Declaration of Mildred Buchanan filed on December 12, 2025; and (3) Petitioner's Request for Judicial Notice in Response to Respondent's Opposition to Support [sic] of Motion for Summary Judgment, as they are in violation of *Code of Civil Procedure* §437c(b)(4) ["...The reply shall not include any new evidentiary matter, additional material facts, or separate statement submitted with the reply and not presented in the moving papers or opposing papers."]

While the Court disagrees that it has already interpreted Barbara Bowen's verified petition to present a creditor's claim under *Probate Code* §19000, the Court does make such a finding in relation to the instant Motion. The Court finds that the undisputed material facts

show that Barbara Bowen is making the allegation that she is owed \$10,000 from the Trust as reimbursement for her purchase of a Generac generator. The Petition states:

“15. Objection is made to the First Account not including a known liability to Petitioner in the amount of \$ 10,000 for the Generac generator purchased by Petitioner to improve the Trust real property residence located at 5492 Edgewood Lane, Paradise, California 95969, of which Settlor and former trustee WILLIAM H. LOWRY agreed would be reimbursed to Petitioner from PG&E Fire Victim Funds. Petitioner claims reimbursement from the Trust in the amount of \$10,000.”

The Court concludes that this is an *“action against the trust for any debt alleged to be owed by the settlor”* which triggers the no-contest provision of the Trust.

The Court further finds that there is no triable issue of material fact as to probable cause, the Court finding that the claim was filed well beyond the applicable statute of limitations. See, *Code of Civil Procedure* §366.2.

Mildred I. Buchanan’s Motion for Summary Judgment on Petition to Enforce No-Contest Clause is granted. Counsel for Ms. Buchanan shall prepare and submit a revised form of order consistent with this ruling within two weeks.