

**Judge Mosbarger – Law & Motion – Wednesday, January 14, 2026 @ 9:00 AM
TENTATIVE RULINGS**

1. 23CV00479 ROGERS, KELSI V. KENNEMER, FRANKLIN ET AL

EVENT: Plaintiff's Motion to Strike or Tax Costs

The Court finds that the Clerk's Certificate of Mailing of a Judgment *may* begin the running of the memorandum of costs deadline, but only if specific requirements are met. The clerk's notice must affirmatively state that it was given "upon order by the court" or "under Code of Civil Procedure §664.5". If these conditions are not satisfied, the time limits for filing a memorandum of costs are not triggered by the clerk's notice. See, *Simgel Co., Inc. v. Jaguar Land Rover North America, LLC* (2020) 55 Cal.App.5th 305; *Van Beurden Ins. Servs. v. Customized Worldwide Weather Ins. Agency* (1997) 15 Cal.4th 51. Here, the Clerk's Certificate of Mailing dated October 24, 2025, does not include the required language to trigger the 15-day deadline under Rule of Court 3.1700(a)(1), and thus the applicable deadline is within 180 days after entry of judgment and the Court concludes that Defendants' Memorandum of Costs was timely filed.

However, the Court further finds that even if a judgment states that defendants are entitled to costs, a party can file a motion to strike or tax costs, arguing that the defendants have not met the required standard under FEHA. The court retains discretion to determine whether the costs are recoverable based on the specific circumstances of the case and the frivolousness of the claims. See, *Williams v. Chino Valley Independent Fire Dist.* (2015) 61 Cal.4th 97, 115; *Arave v. Merrill Lynch, Pierce, Fenner & Smith*, 2018 Cal.App LEXIS 56; and *Scott v. City of San Diego* (2019) 38 Cal.App.5th 228. Here, Plaintiff argues that the fact that the Court did not find for Plaintiff on her FEHA claims is not sufficient basis to conclude that Plaintiff pursued her FEHA claims without objective bases for believing the claims had potential merit. Plaintiff's claims were supported by sworn testimony, documentary evidence, and an EEOC cause finding. Under *Nelson v. United Technologies* (1999) 73 Cal.App.4th 597, 613, the presence of factual support alone defeats any claim of frivolousness. The Court agrees and finds there is insufficient grounds to conclude that Plaintiff's action, and specifically Plaintiff's FEHA causes of action, were frivolous.

As to the non-FEHA causes of action, in *Roman v. BRE Properties, Inc.* (2015) 237 Cal.App.4th 1040, 1059-1060, the Court discussed that that the heightened standard for cost recovery under *Williams* is determinative even for non-FEHA claims unless the prevailing defendant can demonstrate that the costs sought were solely allocable to the non-FEHA claims. If non-FEHA claims were inextricably intertwined with the FEHA claims, then plaintiff should not be ordered to pay costs unless plaintiff's claims were clearly frivolous, unreasonable or groundless. *Id.* If and only if the non-FEHA claims are solely allocable and separable to the FEHA claims, then the court has the discretion to award routine costs to the prevailing defendant. *Id.* at 1059-1062. Here, Defendants do not address the issue of apportionment, instead arguing in Opposition only that the issue of entitlement to costs was already determined. That being incorrect, and there being no discussion relative to the issue of apportionment, the Court deems this issue unopposed. The Court confirms that it is not making a finding as to whether the non-FEHA claims are

inextricably intertwined for purposes of this Motion but rather is deeming the issue unopposed and the Motion as to the non-FEHA claims is granted solely on that basis.

Plaintiff's Motion to Strike or Tax Costs is granted, and Defendants' Memorandum of Costs is stricken in its entirety. Plaintiff shall prepare and submit a form of order within two weeks.

2. 24CV02857 PLATTS, TOBIAS, II ET AL V. JOHNSON, MARK ET AL

EVENT: Defendants' Motion to Compel Initial Responses; Request for Monetary, Issue, and Evidentiary Sanctions

Defendants' Motion to Compel Initial Responses; Request for Monetary, Issue, and Evidentiary Sanctions is unopposed and is granted, in part. Plaintiffs Tobias Platts, II; Kishuante Platts; A-Zarrah Platts, a minor by Kishuante Platts as GAL; and A-Zmonni Platts, a minor by Kishuante Platts as GAL (collectively "Plaintiffs" herein) are to provide verified responses to Defendants' Form Interrogatories, Special Interrogatories, Requests for Admissions, and Requests for Production of Documents, without objections, within 10 days' notice of the Order. Monetary sanctions are awarded against Plaintiffs and their attorney of record, Ilan N. Rosen Janfaza, in the amount of \$4,300 which are to be paid within 30 days' notice of this Order. The Court declines to make a ruling as to the requested issue and evidentiary sanctions at this time, finding that such request is premature. The Court will sign the form of order submitted by counsel with modification striking Paragraphs 4 and 5.

3. 25CV02798 TYLER, MATHEW V. STATE OF CALIFORNIA ET AL

EVENT: Plaintiff's Motion for Leave to File Supplemental Complaint

As an initial matter, the Court notes that Plaintiff served the instant motion on Defendant James Gallagher individually. This is improper as Mr. Gallagher is represented by counsel and *Code of Civil Procedure* §1015 requires that service on a represented party must be made on the attorney of record, in this instance, Cara L. Jenkins, Brian Bobb, and Benjamin R. Herzberger at the Office of Legislative Counsel in Sacramento. Plaintiff is directed to serve any future filings, correspondence, etc... on Mr. Gallagher's counsel of record.

The argument presented by the Defendants in the Opposition and discussed at length in the Plaintiff's Reply is whether the proposed supplemental allegations have merit. However, the Court finds that whether the proposed supplemental allegations have merit is not properly before the Court in relation to the instant motion. Rather, the only determination the Court must make in relation to the instant motion is whether the supplemental complaint alleges facts that are material to the case and that occurred after the filing of the original complaint. The purpose of a supplemental complaint is to bring to the court's attention new facts that affect the rights asserted or the relief sought in the original action. CCP §464; *Erickson v. Boothe* (1954) 127 Cal.App.2d 644; *Melvin v. E.*

B. & A. L. Stone Co. (1908) 7 Cal.App.324. Here, the Court finds that the supplemental complaint includes allegations that are a “new misappropriation of public funds, a new interference with federal rights, and an overt act in a criminal conspiracy”, and such allegations are consistent with and in furtherance of the original complaint. See, *Stephani v. Abbott* (1934) 137 Cal.App. 510; *Erickson v. Boothe* (1954) 127 Cal.App.2d 644. Plaintiff’s Motion for Leave to File Supplemental Complaint is granted and the Court will utilize the form of order submitted by the Plaintiff with the following modifications:

The Court will strike Paragraph 2 [“The Supplemental Complaint is deemed filed and served as of the date of this Order”] and Paragraph 3 [Defendants shall have 30 days from the date of this Order to respond to the Supplemental Complaint”]. Plaintiff shall file and serve the Supplemental Complaint as required by *Code of Civil Procedure* §464.

The Court will hear from counsel for the Defendants in regard to the pending Demurrer currently set for hearing on January 21, 2026 at 9:00 a.m. in light of the Court’s ruling. However, this is not an invitation to present oral argument in regard to Plaintiff’s Motion. If the parties wish to argue the tentative ruling, they must comply with Butte County Local Rule 2.9 and California Rules of Court Rule 3.1308(a)(1).

4. 25CV03168 HUCHRO, MONICA A V. PACIFIC GAS & ELECTRIC ET AL

EVENT: Plaintiff’s Motion for Order Disqualifying Counsel

The fact that the moving party was once represented by counsel for the opposing party is not sufficient to justify disqualification. The moving party must show either: (1) that the attorney actually possesses confidential information relevant to the present controversy obtained from the former client; or (2) that the attorney is presumed to possess relevant confidential information because there is a “substantial relationship” between the former and current representation. See, *H.F. Ahmanson & Co. v. Salomon Brothers, Inc.* (1991) 229 Cal.App.3d 1445, 1452; *Kim v. The True Church Members of the Holy Hill Community Church* (2015) 236 Cal.App.4th 1435, 1454–1455. Here, the Court finds that Plaintiff has failed to establish that Ms. Power actually possesses confidential information relevant to the present controversy obtained from Plaintiff as her former client, nor is there a substantial relationship between the former and current representation. Plaintiff’s Motion for Order Disqualifying Counsel is denied. Counsel for the Defendant shall prepare and submit a form of order within two weeks.

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5-6. 25CV04143 ROBINSON, JOSEPH V. SELLAND, DAMON

EVENTS: (1) Defendant City of Chico Code Enforcement Officer Damon Selland's Demurrer to Plaintiff Joseph Robinson's Complaint

(2) Plaintiff's Motion for Ruling on Plaintiff's Due Process Right to be Heard in Case Number CE23-01510

Defendant City of Chico Code Enforcement Officer
Damon Selland's Demurrer to Plaintiff Joseph Robinson's Complaint

In relation to Plaintiff's Notice of Intent to Call Sean Morrissey as a Witness on 1/14/26 in the Hearing of Defendant's Demurrer filed on December 22, 2025 and the Notice of Documents Through Which Plaintiff will be Heard on January 14, 2026, at 9AM and Notice of Issues That Plaintiff Raises filed on December 29, 2025, the Court notes that a demurrer is a legal proceeding that tests the sufficiency of the pleadings alone, without consideration of evidence or extrinsic matters. The court's role in a demurrer hearing is to determine whether the complaint, as it stands, states a cause of action based solely on the face of the pleading or judicially noticeable matters. *SKF Farms v. Superior Court* (1984) 153 Cal.App.3d 902. As such, no such witness testimony or evidence will be permitted at the hearing on January 14, 2026, nor will the Court rule on any of the "issues of law" raised by the Plaintiff in his various filings in opposition to this Demurrer.

Defendant's Request for Judicial Notice is granted. Plaintiff's Judicial Notice of California Government Code Section 8698 and the Shelter Crisis in Chico filed on December 23, 2025 is denied. Plaintiff's Judicial Notice of the True Significance of the English Word "Numerous" filed on December 23, 2025 is denied. Plaintiff's Judicial Notice of California Code of Judicial Ethics and the Appropriate Corrective Action for the Provable False Verified Statements by Sean Morrissey filed on December 29, 2025 is denied. Plaintiff's "Notice that Code Enforcement Received Zero Legitimate Complaints Related to Subject Property" filed on December 29, 2025, insofar as it requests the Court take judicial notice, is denied. Finally, Plaintiff's "Notice of State Bar Complaint Against Sean Morrissey" filed on December 22, 2025, insofar as it requests the Court take judicial notice, is denied.

The Demurrer to the entire Complaint is granted on the grounds that (1) Plaintiff has failed to allege he exhausted administrative remedies subject to the claim presentation requirements set forth in the *Government Code* §810 et seq.; and (2) Plaintiff has failed to allege facts sufficient to show an exception to the discretionary immunity in *Government Code* §820.2, and statutory immunity in *Government Code* §§820.4 and 821.6, thus the Complaint fails to state facts to support any cause of action pursuant to CCP §430.10(e). The Court further finds that that the Complaint is uncertain, ambiguous, and unintelligible, and therefore fails to state facts sufficient to constitute a cause of action pursuant to CCP §430.10(f) and (e).

The Demurrer is overruled in all other respects.

The Court grants leave to amend. Any amended complaint shall be filed and served within 20 days' notice of this ruling. Counsel for the Defendant shall prepare and submit a revised form of order consistent with this ruling within two weeks.

Plaintiff's Motion for Ruling on Plaintiff's Due Process
Right to be Heard in Case Number CE23-01510

Courts have identified as grounds for denial . . . failure to comply with rule 3.1113 of the California Rules of Court, concluding that it would not "go through the paperwork backwards and forwards to try to figure out how the law applies to the facts." *Quantum Cooking Concepts, Inc. v. LV Associates Inc.* (2011) 197 Cal.App.4th 927, 931. Such submissions must be supported by memoranda containing "a statement of facts, a concise statement of the law, evidence and arguments relied on, and a discussion of the statutes, cases, and textbooks cited in support of the position advanced," and provides that . . . failure to provide such a memorandum can be construed "as an admission that the motion . . . is not meritorious . . ." [(Rule 3.1113(b) & (a), emphasis added).] Here, Plaintiff has not cited any applicable statutes, any relevant case law, or other legal authority in support of his Motion and therefore lacks any substantive legal analysis. The Motion is denied.