

**Judge Mosbarger – Law & Motion – Wednesday, May 27, 2026 @ 9:00 AM
TENTATIVE RULINGS**

1. 23CV00166 THEARD, DONRECKA V. BLACK, MISTY

EVENT: Plaintiff's Counsel's Motion to be Relieved as Counsel

The Court still has not yet received a proof of service and therefore the Court cannot confirm whether notice complies with California Rules of Court, Rule 3.1362(d) or *Code of Civil Procedure* §1005. The Motion is continued to one last time to July 1, 2026 at 9:00 a.m. to allow sufficient time for notice and filing of a proof of service. If a Proof of Service is not filed prior to the continued hearing date, the Motion will be denied.

2. 25CV02563 ROBINSON, ANDREW V. DEAL, MONTE ET AL

EVENT: Review Hearing (Status of Final Valuation Report)

The Court will hear from counsel regarding the status of the filing of the final valuation report and any objections/responses thereto.

3. 26CV01533 SCHWAB, ANN ET AL V. REYNOLDS, KASEY ET AL

EVENT: Petitioners' Motion for Preliminary Injunction

Good cause appearing based on the stipulation of the parties, the Court finds that Petitioners Ann Schwab; Eric Nilsson; Kate Sheehy; Jocelyn Ahern; Julia Cruse; Kelsey Simmen; Theodore Ketai; and Celeste Bailey Pace (collectively "Petitioners" herein) may file a Reply Brief exceeding the 10 page limit of Rule of Court 3.1113(d), not to exceed 16 pages. The Court will sign the form of order submitted with modification to the cited Rule of Court, to be 3.1113(d) instead of 3.113(d).

Respondent Kasey Reynolds' ("Respondent" herein) Request for Judicial Notice is granted. Petitioners Request for Judicial Notice is granted. The Court further notes that there are eleven Exhibits referenced in the "Supplemental Declaration of Peter G. Washington in Support of Petitioners and Plaintiffs' Motion for Preliminary Injunction", filed on May 19, 2026, but not included in Petitioners' Request for Judicial Notice. While such documents should have more appropriately been included in Petitioners' Request for Judicial Notice, the Court has reviewed each of the attached Exhibits.

The Court does acknowledge that the Declarations of Pablo K. Cornejo-Warner and the Matthew Kelly were not timely filed and served by Petitioners. However, the Court declines to sustain the objection as to timeliness. As to the objections to the Declarations of Pablo K. Cornejo-Warner and Matthew Kelly on the grounds that the opinions therein offered do not satisfy the threshold for expert testimony under *Evidence Code* §801(a), the Court agrees. "If a witness is testifying as an expert, his testimony in the form of an opinion is limited to such an opinion as is: (a) Related to a subject that is sufficiently beyond common experience that the opinion of an expert would assist the trier of fact..." *Evidence Code* §801(a). Here, the Court finds that it is just as competent as the expert to

consider and weigh the evidence and draw the necessary conclusions. Respondent's objections are therefore sustained, and the Court has not considered either the Declaration of Pablo K. Cornejo-Warner or the Declaration of Matthew Kelly. Petitioners' Objections to Evidence are overruled.

A public official shall not make, participate in making, or in any way attempt to use the public official's official position to influence a governmental decision in which the official knows or has reason to know the official has a financial interest. *Government Code* §87100. A public official has a financial interest in a decision within the meaning of Section 87100 if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the official, a member of the official's immediate family, or any of the following (as is relevant here): (a) a business entity, (b) any real property, or (c) any source of income. *Government Code* §87103(a)-(c).

In relation to the three *Government Code* subsections above, there is further discussion regarding what is required to show whether a governmental decision's reasonably foreseeable financial effect on a financial interest is material under various California Code of Regulations. See, e.g., Cal. Code Regs. Tit. 2, §§18702 [general introductory information regarding relevant materiality Sections], 18702.1 [business entity], 18702.2 [real property], and 18702.3 [source of income]. Petitioners indicate/argue that they are not proceeding under any of these theories, but rather a more general "if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the official..." [See Reply at Pg. 1, Line 23 to Pg. 2, Line 1].

However, in determining whether it is "reasonably foreseeable that the decision will have a material financial effect...on the official..." the Court is guided by Cal. Code Regs. Tit. 2, §18702.5, which states in relevant part that "[i]f the decision would have a reasonably foreseeable financial effect on the official's financial interest in a business entity or real property, any related effect on the official's personal finances is not considered separately. The financial effect on the business entity or real property is analyzed only under the respective materiality standards in Regulations 18072.1 and 18702.2." Cal. Code Regs. Tit. 2, §18702.5(c). Thus, we must undertake the analysis under each of those Regulations notwithstanding Petitioners' position that Respondent's argument in this regard is a "red herring." The Court finds it is not. In the Reply, Petitioners argue that "Petitioners' moving papers are clear in arguing that Reynolds's conflict stems from her ownership of and employment by Shubert's. (Memorandum of Points and Authorities in Support of Motion for Preliminary Injunction ("Motion") at pp. 6-7.)" [Reply at Pg. 1, Lines 23-25]. This falls squarely under Cal. Code Regs. Tit. 2, §18702.5(c), and thus Respondent's argument is proper.

Turning then to the necessary analysis the Court must undertake to determine whether a governmental decision's reasonably foreseeable financial effect on a financial interest is material, which requires an analysis under both Cal. Code Regs. Tit. 2, §§18702.1 and 18702.2.

Cal. Code Regs. Tit. 2, §§18702.1 sets the materiality thresholds for business-entity interests. The financial effect on a business entity is material if the decision may result in (a) an increase or decrease of the entity's annual gross revenues equal to or greater than \$1,000,000, or 5% of annual gross revenues with the change at least \$10,000; or (b) cause the entity to incur or avoid expenses equal to or greater than \$250,000, or 1% of annual gross revenues with the change at least \$2,500. Cal. Code Regs. §18702.1(a)(2)-(3). The financial effect must also be reasonably foreseeable, meaning a "realistic possibility" rather than a "hypothetical or theoretical" one. *Id.* §18701(b).

A preliminary injunction is governed by *Code of Civil Procedure* §526-§527. *Code of Civil Procedure* §527(a) provides that "[a] preliminary injunction may be granted at any time before judgment upon a verified complaint, or upon affidavits if the complaint in the one case, or the affidavits in the other, show satisfactorily that sufficient grounds exist therefor. The burden is on Plaintiff/Petitioner (moving party) to show all elements necessary to support issuance of a preliminary injunction. See, *O'Connell v. Sup. Ct. (Valenzuela)* (2006) 141 Cal.App.4th 1452, 1481.

With that basic framework, here, the Court finds that Petitioners have failed to satisfy their burden of showing a "realistic possibility" of either a decrease of annual gross revenues equal to or greater than \$1,000,000, or 5% of annual gross revenues with the change at least \$10,000; or expenses equal to or greater than \$250,000, or 1% of annual gross revenues with the change at least \$2,500. The Court finds instead that the arguments are speculative in this regard.

Cal. Code Regs. Tit. 2, §§18702.2 sets the materiality thresholds for real property interests. In this regard, the only argument by Petitioners is:

"Reynolds spends her first five pages arguing that she has no conflicting real property interest. If the intent was to put her best foot forward, it was a misstep: Petitioners have simply never based their case on a claimed real property interest. (See Motion at pp. 6-7 [stating that Reynolds's financial interest is covered by rules other than those addressing real property interests].)"

Based on the above, the Court finds that Petitioners have failed to satisfy their burden of showing that the elements set forth in Cal. Code Regs., Tit. 2, §18702.2(c)(1)-(4) have been satisfied, and likewise failed to address the exception in Cal. Code Regs., Tit. 2, §18702.2(d)(1), which was argued by the Respondent.

Finally, Respondent argues that Petitioners assert that Respondent is disqualified under *Government Code* §87103(c) by virtue of the income she derives from Shubert's. (Mot. at 7.) Based upon the Stroud 2023 Letter and Cal. Code Regs., Tit. 2, §18702.5(c), the reasonably foreseeable financial effect of a governmental decision on an official's financial interest in a business as either a business entity or source of income is material if the business will be financially affected under the materiality standards in Cal. Code Regs., Tit. 2, §18702.1. See, Cal. Code Regs., Tit. 2, §18702.3(a)(4). As discussed above.

The exception raised by Petitioners, which is found in *Government Code* §87103.5(a), provides:

“Notwithstanding subdivision (c) of Section 87103, a retail customer of a business entity engaged in retail sales of goods or services to the public generally is not a source of income to an official who owns a 10-percent or greater interest in the entity if the retail customers of the business entity constitute a significant segment of the public generally, and the amount of income received by the business entity from the customer is not distinguishable from the amount of income received from its other retail customers.”

This exception presupposes a finding that the official has a reasonably foreseeable material financial interest. That is not the case here, so Respondent does not need to invoke the “public generally” exception and the Court need not consider the merits or applicability of this exception.

In relation to the balance of harms, the Court finds that while Petitioners’ argue that the “project will be delayed beyond the grant cycle, and much-needed safety and enjoyability enhancements to downtown will take that much longer, perhaps until the next ATP grant cycle another two years hence, to move forward” satisfies the necessary showing of irreparable harm, the Court does not agree. As Respondent points out, the consequence of missing the June 22, 2026 deadline is not the permanent loss of grant funding for the Downtown Chico Project. It is, at most, the deferral of an application to the next biennial cycle. The Court agrees that is not the kind of harm a preliminary injunction is designed to prevent. Irreparable harm means harm that cannot be undone by a later remedy. See *Tahoe Keys Property Owners’ Association v. State Water Resources Control Board* (1994) 23 Cal.App.4th 1459, 1471 [preliminary injunction “extraordinary” and reserved for cases of genuine “irreparable” harm]. Thus, the balance of harm weighs in favor of Respondent here.

California Fair Political Practices Commission (FPPC) advice letters, whether formal or informal, are not binding legal authority and do not establish legal precedent. Courts may consider FPPC advice letters as persuasive authority, particularly when the FPPC has a comparative interpretive advantage in enforcing the [Chapter 7 of the Political Reform Act of 1974] PRA. However, ultimate questions of statutory and regulatory interpretation remain the responsibility of the courts. *Downey Cares v. Downey Community Development Com.* (1987) 196 Cal.App.3d 983. In addition to the *Government Code* Sections and Regulations cited herein, the Court has also reviewed and considered the analysis presented in the following FPPC advice letters: The Oglesby Advice Letter (1975) (FPPC Advice Letter, No. I-03-98); The Owen Advice Letter (1976) (FPPC Advice letter, No. 76-005); The Levinger Advice Letter (1987) (FPPC Advice Letter, No. A-87-061); The Chopra Advice Letter (2018) (FPPC Advice Letter, No. A-18-254); The Snow Advice Letter (2020) (FPPC Advice Letter, No. A-20-116); The Weil Advice Letter (2023) (FPPC Advice Letter, No. I-03-098); The Stroud Advice Letter (2023) (FPPC Advice Letter, No. A-23-131); The Lam Advice Letter (2024) (FPPC Advice Letter, No. A-24-036); and The Stroud Advice Letter (2025) (FPPC Advice Letter, No. A-25-017). Additionally, the Court has also reviewed and considered the video evidence lodged with

the Court on a USB on May 15, 2026 containing Exhibits 18 and 19, and as noted above, although not properly included in a Request for Judicial Notice, the Court has also reviewed those documents referenced in the Supplemental Declaration of Peter G. Washington in Support of Petitioners and Plaintiffs Motion for Preliminary Injunction, filed on May 19, 2026.

In weighing the factors to determine whether to issue a preliminary injunction, Courts typically engage in a two-part analysis that evaluates: (1) whether the party is likely to prevail on the merits; and (2) a comparison of the harm suffered by the party if the injunction is not issued compared to the harm suffered to the defendant if it is. *IT Corp v. Imperial* (1983) 35 Cal.3d 63, 69-70; see also *Smith v. Adventist Health System/West* (2010) 182 Cal.App.4th 729, 749. Here, for the reasons stated above, the Court finds that Petitioners have failed to establish a reasonable probability of prevailing on their claims, and the balance of harm weighs in favor of Respondents. Therefore, Petitioners' request for preliminary injunction is denied.

The Court will hear from counsel regarding the setting of a full hearing and an estimate as to how much time is needed to lodge the Administrative Record. However, this is not an invitation to present oral argument in regard to Petitioners' 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).