

**Judge Mosbarger – Law & Motion – Wednesday, July 29, 2026 @ 9:00 AM
TENTATIVE RULINGS**

1. 23CV03195 GARCIA, ALBERTO v. FIRESTORM WILDLAND FIRE SUPPRESSION, INC

EVENT: Defendant Firestorm Wildland Fire Suppression, Inc.'s Motion for Sanctions Against Plaintiff's Former Counsel Pursuant to Code of Civil Procedure Section 128.5

Defendant Firestorm Wildland Fire Suppression, Inc.'s Motion for Sanctions Against Plaintiff's Former Counsel Pursuant to Code of Civil Procedure Section 128.5 is denied, the Court finding that Defendant has failed to establish that Plaintiff or its counsel participated in actions or tactics, made in bad faith, that are frivolous or solely intended to cause unnecessary delay, to justify an award of sanctions pursuant to *Code of Civil Procedure* §128.5(a). The Court also denies Plaintiff's request for an Order to Show Cause re: Sanctions. Counsel for the Plaintiff shall prepare and submit a form of order within two weeks.

2. 23CV03395 VAUGHAN, DONALD E, II ET AL V. FITCH, JAMES MICHAEL ET AL

EVENT: Defendants' Motion for a Court Order for Future Depositions to be Taken Remotely

Defendant's Motion for a Court Order for Future Depositions to be Taken Remotely is GRANTED, the Court finding that Defendant has established good cause for the depositions of Sharese Butler, John Touchette, and Rhonda Riggins to be taken by contemporaneous videoconference rather than in person. The Court orders counsel to meet and confer on dates and times that are mutually convenient. Plaintiffs' request for sanctions is denied. Counsel for the Defendant shall prepare and submit a revised form of order consistent with this ruling within two weeks.

3. 25CV00675 KRULDER, WILLIAM D v. GENERAL MOTORS, LLC

EVENT: Defendant General Motors LLC's Motion to Dismiss for Discovery Violations; Request for Award of Costs (C.C.P. 871.26, SUBD. (J)(3))

Defendant General Motors LLC's ("Defendant" herein) Motion to Dismiss for Discovery Violations; Request for Award of Costs is unopposed and is granted. Plaintiff William D Krulder's ("Plaintiff" herein) action is dismissed without prejudice pursuant to *Code of Civil Procedure* §871.26(j)(3), and Plaintiff's counsel of record, Strategic Legal Practices, shall be responsible for costs awarded to Defendant. The Court will retain jurisdiction for that determination pursuant to *Code of Civil Procedure* §871.26(j)(3). The Court vacates the Mandatory Settlement Conference on December 2, 2026, the Trial Readiness Conference on April 15, 2027, and the Jury Trial on April 19, 2027. The Court will sign the form of order submitted by Defendant.

4. 25CV02285 GUTIERREZ, PEDRO v. CALIFORNIA DEPARTMENT OF WATER RESOURCES ET AL

EVENT: Demurrer by Defendant Butte County to Plaintiff Zulema Herrera and by and Through her GAL Noemi Herra; Pedro Gutierrez First Amended Complaint

Notice complies with *Code of Civil Procedure* §1005 in terms of timing, the proof of service showing service by email on June 22, 2026. However, the proof of service shows service on Plaintiffs' counsel only, and does not include counsel for Defendant State of California, by and through the Department of Water Resources. *Code of Civil Procedure* §1014 provides that "... A defendant appears in an action when the defendant answers, ... After appearance, a defendant or the defendant's attorney is entitled to notice of all subsequent proceedings of which notice is required to be given...." Here, Defendant State of California, by and through the Department of Water Resources filed its Answer on April 20, 2026, and is therefore entitled to notice. Notice is therefore insufficient and the matter is continued to August 26, 2026 at 9:00 a.m. to allow for proper notice with counsel for the Plaintiffs to provide notice to Defendant State of California, by and through the Department of Water Resources and file a proof of service with the Court.

5-6. 25CV02798 TYLER, MATTHEW v. STATE OF CALIFORNIA ET AL

EVENTS: (1) State Defendants' Demurrer

(2) Plaintiff's Motion/Request for Judicial Notice in Support of Opposition to Demurrer

Defendants Secretary of State Shirley Weber, Attorney General Rob Bonta, State Treasurer Fiona Ma, Supervising Deputy Attorney General Lara Haddad, and Deputy Attorney General Edward Wolfe, all in their official capacities, and the State of California and Secretary of State's Office's (collectively "Defendants" herein) Request for Judicial Notice is granted.

Plaintiff Matthew Tyler's ("Plaintiff" herein) Request for Judicial Notice is granted.

While demurrers based upon uncertainty are disfavored where the defendant can reasonably determine the nature of the claims and frame a response, here, Plaintiff acknowledges that the existing pleadings contain "too many overlapping legal theories, insufficient separation among defendants, and allegations that should be treated as supporting facts rather than independent causes of action." The Court agrees and the Demurrer is sustained on the grounds that it is uncertain and unintelligible. The Court does grant leave to amend.

As to the alleged violations of the Penal Code and federal criminal statutes, Plaintiff acknowledges, withdraws, "or does not oppose dismissal of claims that depend solely on private prosecution of criminal statutes, the Unruh Act against State Defendants, FEHA treatment of presidential candidacy as employment, negligent infliction of emotional distress as an independent tort, Government Code §1090 absent a specific contract and financial interest, Title VI as a disability-discrimination statute, taxpayer standing under Code of Civil Procedure § 526a against State Defendants, and §§ 1985–1986 absent sufficiently specific

conspiracy facts.” As such, the Demurrer is sustained without leave to amend on this basis as to the following: Federal criminal law claims: 11, 22, 29 (Compl., pp. 25, 30-31, 34-35); State criminal law claims: 12, 18 (Compl., pp. 26, 29); and Federal civil law claims: 9, 21 (Comp., pp. 24, 30).

The Court agrees that sovereign immunity bars Plaintiff’s *Government Code* §1983 claims against the State of California, the Secretary of State’s office, and the state executive branch officials and employees. Even “state officers sued in their official capacity are not considered persons under section 1983,” and are therefore immune under both “the Eleventh Amendment and the doctrine of sovereign immunity.” *Venegas v. County of Los Angeles* (2004) 32 Cal.4th 820, 829. Plaintiff’s position in this regard is that he “does not maintain a §1983 damages claim against the State, the Secretary of State’s Office, or official-capacity defendants as though those entities were “persons” for damages purposes”, which appears to the Court to be an acknowledgement of the deficiencies of the pleading and the Demurrer is sustained on this basis. The Court grants leave to amend.

Lastly, Defendants argue that Plaintiff has not complied with the presentation requirement of the Government Claims Act (*Civil Code* section 945.4) [as Plaintiff correctly points out, the correct reference would be to *Government Code* §945.4], which requires a written claim be presented to and denied by a public entity before Plaintiff may maintain an action for money or damages. In his opposition, Plaintiff states that he “narrows or withdraws state-law damages theories that require Government Claims Act presentment where presentment cannot be alleged.” Once again, the Court deems this an acknowledgment of the deficiencies in Plaintiffs’ FAC, and the Demurrer is sustained on this basis, again with leave to amend.

Any amended Complaint is to be filed and served within 20 days’ notice of this order. Counsel for the Defendants shall prepare and submit a form of order consistent with this ruling within two weeks.

7. 25CV03384 ANDERSON, MICHAEL v. HARLEY-DAVIDSON MOTOR COMPANY, INC. ET AL

EVENT: Plaintiff’s Motion to Compel Further Responses to Form Interrogatories, Set One, No. 4.1

The Proof of Service indicates that the Motion was served electronically on July 7, 2026, which is only 16 Court days’ notice. Pursuant to *Code of Civil Procedure* §§1005(b), 1010.6(3)(B), an additional 2 Court days’ notice is required for electronic service. Thus, notice here is insufficient. However, the Court has considered the merits of the Motion and concludes that Plaintiff’s Motion to Compel Further Responses to Form Interrogatories, Set One, No. 4.1 is moot, Plaintiff having subsequently received a Code compliant response. The Motion is denied.