

December 19, 2025, Civil Law & Motion Tentative Rulings – Judge Kellegrew

**1. CU0001723 UMPQUA BANK, as Successor by Merger to Columbia State Bank,
an Oregon State Chartered Bank vs. Joseph A. Miller, DMD, Inc., a
California Corporation et al**

The Receiver argues Defendant Miller’s appeal of the order entered on July 24, 2025 does not stay enforcement of the Order of Contempt against Mr. Guyton. The court agrees.

Request for Judicial Notice

Mr. Guyton’s request for judicial notice is granted.

Analysis

Section 916 of the Code of Civil Procedure states the general rule: “the perfecting of an appeal stays proceedings in the trial court upon the judgment or order appealed from or upon the matters embraced therein or affected thereby....” There are many exceptions to the rule. *See* Code Civ. Pro. §§ 917.1-917.9. Therefore, the stay only applies to the judgment or order which is the subject of the appeal or is affected by the appeal, and Mr. Guyton has failed to establish a sufficient relation between the order appealed from and the contempt order. Thus, the order of contempt is unaffected by the appeal.

Code of Civil Procedure § 917.2 states, “[t]he perfecting of an appeal shall not stay enforcement of the judgment or order of the trial court if the judgment or order appealed from directs the assignment or delivery of personal property, including documents, whether by the appellant or another party to the action, or the sale of personal property upon the foreclosure of a mortgage, or other lien thereon unless [appellant posts a bond, etc].” At bar, the July 24, 2025 Sale Order granted the sale of personal property in satisfaction of a lien. Therefore, enforcement of such is not stayed by Section 916.

Code of Civil Procedure § 917.5 states, “[t]he perfection of an appeal shall not stay enforcement of the judgment or order in the trial court if the judgment or order appealed from appoints a receiver...” unless the appellant posts a bond set by the court. Both the April 4, 2025 “Temporary Order Expanding Powers of Receiver over Joseph A. Miller, DMD, Inc.” and the July 24, 2025 “Order Expanding Powers of Receiver Over Joseph A. Miller, DMD, Inc.” were orders expanding the appointment of the receiver, and thus fall under the exception of Code of Civil Procedure § 917.5. Therefore, enforcement of such is not stayed by Section 916.

The Order to Show Cause re Contempt against Jeffrey Guyton arose from his violations of the April 4, 2025 Temporary Order. Because the enforcement of the Temporary Order is not stayed by his appeal, even if it could be argued the contempt order is related, the same cannot be stayed either.

Defendant W. Gregory Klein's anti-SLAPP special motion to strike causes of action for legal malpractice, abuse of process, and intentional infliction of emotional distress against is granted.

Request for Judicial Notice

Defendant Klein's request for judicial notice is granted. The court takes notice of the requested public records from this case and the family law case FL14-0114491.

Defendant's Objections to Plaintiff's Evidence

Defendant's objections to evidence submitted in support of plaintiff's opposition to his anti-SLAPP special motion to strike are sustained as to 5-8 (legal conclusion) and 9-12 (hearsay, not properly authenticated). The remaining objection is overruled.

Standard of Review

Defendant Klein ("Defendant" or "Klein") filed a special motion to strike three causes of action from plaintiff's complaint under Code of Civil Procedure § 425.16, also known as the anti-SLAPP ("strategic lawsuit against public participation") statute. "The anti-SLAPP procedures are designed to shield *a defendant's* constitutionally protected conduct from the undue burden of frivolous litigation." *Baral v. Schnitt* (2016) 1 Cal.5th 376, 393 (emphasis added). "The anti-SLAPP statute does not insulate defendants from any liability for claims arising from the protected rights of petition or speech. It only provides a procedure for weeding out, at an early stage, meritless claims arising from protected activity." *Id.* at 384.

"Resolution of an anti-SLAPP motion involves two steps. First, the defendant must establish that the challenged claim arises from activity protected by section 425.16. If the defendant makes the required showing, the burden shifts to the plaintiff to demonstrate the merit of the claim by establishing a probability of success" *Baral, supra*, 1 Cal.5th at 384 (citations omitted). The California Supreme Court has "described this second step as a 'summary-judgment-like procedure.' The court does not weigh evidence or resolve conflicting factual claims. Its inquiry is limited to whether the plaintiff has stated a legally sufficient claim and made a prima facie factual showing sufficient to sustain a favorable judgment. It accepts the plaintiff's evidence as true, and evaluates the defendant's showing only to determine if it defeats the plaintiff's claim as a matter of law. '[C]laims with the requisite minimal merit may proceed.'" *Id.* at 384-385 (citations omitted).

Step One: Conduct in Furtherance of Right to Petition or Free Speech

Code of Civil Procedure § 425.16(b)(1) states, "A cause of action *against a person arising from any act of that person in furtherance of the person's right of petition or free speech* under the United States Constitution or the California Constitution in connection with a public issue shall be subject to a special motion to strike, unless the court determines that the plaintiff has established that there is a probability that the plaintiff will prevail on the claim." (Emphasis added.) Code of Civil Procedure § 425.16(e) states: "As used in this section, 'act in furtherance of a person's right

of petition or free speech under the United States or California Constitution in connection with a public issue' includes: ... (1) any written or oral statement or writing made before a legislative, executive, or judicial proceeding, or any other official proceeding authorized by law, (2) any written or oral statement or writing made in connection with an issue under consideration or review by a legislative, executive, or judicial body, or any other official proceeding authorized by law, (3) any written or oral statement or writing made in a place open to the public or a public forum in connection with an issue of public interest, or (4) any other conduct in furtherance of the exercise of the constitutional right of petition or the constitutional right of free speech in connection with a public issue or an issue of public interest.” “In the anti-SLAPP context, the critical point is whether the plaintiff's cause of action itself was based on an act in furtherance of the defendant's right of petition or free speech.” *City of Cotati v. Cashman* (2002) 29 Cal.4th 69, 78. Therefore, the anti-SLAPP's statute focuses not on the form of plaintiff's cause of action but, rather, *defendant's* underlying activity that gives rise to the asserted liability and whether that activity constitutes protected speech or petitioning. *See Navellier v. Sletten* (2002) 29 Cal.4th 82, 92.

Litigation privilege

Under Civil Code section 47(b), a publication or broadcast made in a judicial proceeding is privileged. The litigation privilege codified in Civil Code section 47, applies to any publication required or permitted by law in the course of a judicial proceeding to achieve the objects of the litigation, even though the publication is made outside the Courtroom and no function of the Court, or its officers is involved. *Albertson v. Raboff* (1956) 46 Cal.2d 375, 381.) The usual formulation is that the privilege applies to any communication: (1) made in judicial or quasi-judicial proceedings; (2) by litigants or other participants authorized by law; (3) to achieve the objects of the litigation; and (4) that have some connection or logical relation to the action. *Silberg v. Anderson* (1990) 50 Cal.3d 205, 213-214.

The principal purpose of the litigation privilege is to afford litigants and witnesses the utmost freedom of access to the Courts without fear of being harassed subsequently by derivative tort actions. *Silberg, supra*, 50 Cal.3d at p. 213. To achieve this purpose, courts have given the litigation privilege a broad interpretation. *Action Apartment Assn., Inc. v. City of Santa Monica* (2007) 41 Cal.4th 1232, 1241.) Other purposes underlying the litigation privilege include the promotion of the effectiveness of judicial proceedings by encouraging open channels of communication and the presentation of evidence in judicial proceedings; assurance of the utmost freedom of communication between citizens and public authorities whose responsibility is to investigate and remedy wrongdoing; promotion of the effectiveness of judicial proceedings by encouraging attorneys to zealously protect their clients' interests; and enhancement of the finality of judgments by avoiding “an unending roundelay of litigation.” *Silberg, supra*, 50 Cal.3d at 213-214. The privilege is a matter of substantive law and, when applicable, is absolute, because it applies regardless of the communicator's motives, morals, ethics, or intent. *Id.* at 216, 220.

Here, Defendant seeks to strike three causes of action from the complaint. Defendant contends his acts are protected because the causes of action arise from protected activity. The court agrees. Plaintiff's complaint seeks to hold defendant liable for activities conducted in his representation of co-defendant Sabre Hughes in a family law case, including statements made in public court filings. Complaint, ¶¶ 7, 10-11. Therefore, the threshold showing of protected activities – namely written or oral statements made before or in connection with judicial proceedings – has been met.

Step Two: Plaintiff's Probability of Prevailing on the Merits

Given that Defendant made his threshold showing on protected activity, the court moves to the second step of the analysis.

“If the Court determines that relief is sought based on allegations arising from activity protected by the statute, the second step is reached. There, the burden shifts to the Plaintiff to demonstrate that each challenged claim based on protected activity is legally sufficient and factually substantiated. The Court, without resolving evidentiary conflicts, must determine whether the Plaintiff's showing, if accepted by the trier of fact, would be sufficient to sustain a favorable judgment. If not, the claim is stricken. Allegations of protected activity supporting the stricken claim are eliminated from the complaint, unless they also support a distinct claim on which the Plaintiff has shown a probability of prevailing.”

Baral v. Schnitt, supra, 1 Cal.5th at 396.

The litigation privilege is relevant to the second step in the anti-SLAPP analysis in that it may present a substantive defense which plaintiff must overcome to demonstrate a probability of prevailing. *JSJ Limited Partnership v. Mehrban* (2012) 205 Cal.App.4th 1512, 1522. A plaintiff cannot establish a probability of prevailing if the litigation privilege precludes the defendant's liability on the claim. *Flatley v. Mauro* (2006) 39 Cal.4th 299, 323. The litigation privilege has been held applicable to all torts except malicious prosecution, including to immunize defendants from tort liability based on theories of intentional infliction of emotional distress. *Silberg*, supra, 50 Cal.3d at 215.

Defendant asserts that the causes of action against him for Legal Malpractice, Abuse of Process, and Intentional Infliction of Emotional Distress are barred by the litigation privilege, and thus plaintiff cannot establish a probability of prevailing on these claims. The court agrees. Plaintiff's complaint alleges defendant began representing Ms. Hughes in a family law case after previously representing her, and that defendant advocated against plaintiff's interests by issuing a subpoena for her testimony, making arguments in court, and made statements in public court filings. All such activities are covered by the litigation privilege, and thus preclude defendant's liability on such claims. Complaint, ¶¶ 7-8, 11. Plaintiff does not allege any actions taken outside of the litigation; therefore, she cannot establish a probability of succeeding on the merits.

3. CU0002188 Cassandra Jordan v Ingrid Larson et al

Respondent Kiira Jefferson's demurrer to Petitioner's Complaint is sustained without leave to amend.

Request for Judicial Notice

Respondent Kiira Jefferson's unopposed request for judicial notice is granted.

Legal Standard on Demurrer

“A demurrer tests the sufficiency of the complaint as a matter of law.” *Berg & Berg Enterprises, LLC v. Boyle* (2009) 178 Cal.App.4th 1020, 1034. “It has been consistently held that “a plaintiff is required only to set forth the essential facts of his case with reasonable precision and with particularity sufficient to acquaint a defendant with the nature, source and extent of his cause of action.”” *Doheny Park Terrace Homeowners Assn. Inc. v. Truck Ins. Exchange* (2005) 132 Cal.App.4th 1076, 1099, *cited with approval by Doe v. City of Los Angeles* (2007) 42 Cal.4th 531, 550. The pleadings are to be liberally construed with “a view towards substantial justice between the parties[,]” and any specific allegations control the general pleadings. *Gentry v. EBay* (2002) 99 Cal.App.4th 816, 827.

The general rule is that the plaintiff need only allege ultimate facts, not evidentiary facts. *Doe v. City of Los Angeles* (2007) 42 Cal.4th 531, 550. “All that is required of a plaintiff, as a matter of pleading ... is that his complaint set forth the essential facts of the case with reasonable precision and with sufficient particularity to acquaint the defendant with the nature, source and extent of his cause of action.” *Rannard v. Lockheed Aircraft Corp.* (1945) 26 Cal.2d 149, 156-157.

On demurrer, a trial court has an independent duty to “determine whether or not the ... complaint alleges facts sufficient to state a cause of action under any legal theory.” *Das v. Bank of America, N.A.* (2010) 186 Cal.App.4th 727, 734. Demurrers do not lie as to only parts of causes of action, where some valid claim is alleged but “must dispose of an entire cause of action to be sustained.” *Poizner v. Fremont General Corp.* (2007) 148 Cal.App.4th 97, 119. “Generally it is an abuse of discretion to sustain a demurrer without leave to amend if there is any reasonable possibility that the defect can be cured by amendment.” *Goodman v. Kennedy* (1976) 18 Cal.3d 335, 349.

Quasi-Judicial Immunity

It would appear that for the most part Petitioner’s claims are based on dissatisfaction with orders issued in another case involving the actions taken within a family law litigation pursuant to a court order made by other court personnel. As Respondent indicated in her demurrer, the United States Supreme Court has established the rule that judges are immune from civil lawsuits arising out of the exercise of their judicial function. *Mireles v. Waco* (1991) 502 U.S. 9, 11. Under California law, judicial immunity is recognized as “deeply rooted.” *Howard v. Drapkin* (1990) 222 Cal.App.3d 843, 852. The doctrine of judicial immunity to non-judicial parties connected to the judicial process has been extended by California courts. *Id.* at 854, 856. “[T]he orderly administration of the affairs of government necessitates the inclusion of many officials within the cloak of immunity. Executive heads of administrative departments have been included as well as their deputies. *Id.* at 854 (citations omitted). Therefore, “nonjudicial persons who fulfill quasi-judicial functions intimately related to the judicial process” should be given absolute quasi-judicial immunity for damage claims arising from their performance of duties in connection with the judicial process.” *Id.* at 857 (citations omitted).

At bar, Ms. Jefferson was appointed as elisor by the court to enforce its orders, which is the performance of duties in connection with the judicial process, and which requires immunity to avoid the threat of civil liability for performing a judicial function. Respondent’s dissatisfaction with actions taken pursuant to a court order is not a proper subject of a cause of action herein.

Thus, Petitioner cannot state any cause of action against Respondent and the demurrer is sustained without leave to amend.

Government Claims Act

Further, there is no allegation in the complaint that Petitioner has complied with the Government Claims Act, which is an element of a cause of action demanding monetary damages. Gov. Code §§ 900 *et seq.*; *Phillips v. Desert Hospital District* (1989) 49 Cal.3d 699; *DeCampi-Mint v. County of Santa Clara* (2012) 55 Cal.4th 983, 990. Failure to allege facts demonstrating compliance with the claims presentation requirement subjects the complaint to a general demurrer. *State of Cal. v. Superior Court* (2004) 32 Cal.4th 1234, 1239. Under the Government Claims Act, failure to timely present a claim for money or damages to a public entity bars a plaintiff from filing a lawsuit against that entity. *City of Stockton v. Superior Court* (2007) 42 Cal.4th 730, 737-738. Further, an action against a public employee is barred if an action against the employing public entity would be barred by the failure to satisfy the entity claims requirements. Gov. Code, § 950.2. A “judicial branch entity” is a public entity and means any superior court. Gov. Code § 900.3. Because Petitioner has made no showing she has complied with or has been excused from compliance with the Government Claims Act, Petitioner cannot maintain the causes of actions alleged against Respondent.

Uncertainty

Petitioner argues the demurrer should be sustained because it is uncertain. The Court agrees.

A special demurrer for uncertainty is disfavored and will only be sustained where the pleading is so bad that defendant cannot reasonably respond—i.e., cannot reasonably determine what issues must be admitted or denied, or what counts or claims are directed against him/her. Code Civ. Proc. § 430.10(f); *Khoury v. Maly’s of Calif., Inc.* (1993) 14 Cal.App.4th 612, 616. Moreover, even if the pleading is somewhat vague, “ambiguities can be clarified under modern discovery procedures.” *Id.* If the answer contains “substantive factual allegations,” it sufficiently apprises the opposing party of the issues it is being asked to meet. *Williams v. Beechnut Nutrition Corp.* (1986) 185 Cal.App.3d 135, 139 n.2.

In construing Petitioner’s allegations, the court is to give effect to specific allegations that may modify or limit inconsistent general or conclusory allegations. *Financial Corporation of America v. Willburn* (1987) 189 Cal. App. 3d 764, 769. However, while Petitioner herein has referenced various exhibits in her complaint, she has failed to both attach any exhibits to the Complaint, or otherwise properly request Judicial Notice of any of the items referenced. Therefore, the Court will not consider those items referenced in the Complaint for purposes of this Demurrer.

At bar, there is some discussion of legal conclusions in the complaint, but no factual allegations to support them. It is difficult to ascertain Petitioner’s intent because so much of the complaint is ambiguous or unintelligible. The complaint lists causes of action and legal conclusions but fails to identify which parties to which each cause of action is directed. It is unclear if Petitioner intended to direct each cause of action at Ms. Jefferson, or only count two in which she is specifically named.

Leave to amend is granted “where there is a reasonable possibility of successful amendment.” *Goodman v. Kennedy* (1976) 18 Cal.3d 335, 348. The burden is on the complainant to show the court a pleading can be amended successfully. In the case at bar, the court finds that because of the quasi-judicial immunity granted to Ms. Jefferson, as well as the failure to file a Government Claim as a condition precedent to filing suit, the court will sustain the demurrer without leave to amend.