

April 3, 2026, Civil Law & Motion Tentative Rulings

1. CU0001395 Eric Butterworth et al vs. Mountain Concepts, LLC et al

Appearances are required. The Court is inclined to grant Attorney Alexandra M. Asterlin’s unopposed motion to be relieved as counsel for all Defendants. Counsel shall confirm whether the motion is intended to include Mountain Concepts, LLC as both Defendant and Cross-Complainant.

The Court, on its own motion, continues the April 13, 2026, case management conference to June 15, 2026, at 09:00. Counsel Asterlin shall give notice to all parties.

In addition, Counsel is ordered to prepare and submit a revised order (MC-053) that reflects the continued case-management conference date. The order relieving counsel will be deemed effective only when Counsel files a proof of service with the Court of a copy of the signed order on the client. *See* California Rules of Court, rule 3.1362(e). Counsel shall submit the revised order for the Court’s signature within two (2) court days of the Court’s order becoming final.

2. CU0001683 County of Nevada vs. Michael James Taylor

Defendant’s Motion for Entry of Judgment on the Cross-Complaint

Defendant’s unopposed motion for entry of judgment on the cross-complaint is construed as a request for dismissal of the cross-complaint pursuant to Code of Civil Procedure section 581(f)(1) after the County’s demurrer to the cross-complaint was sustained without leave to amend. *See* October 10, 2025, Order. As construed, the motion is granted. Plaintiff shall submit an appropriate order approved as to form by Defendant within 10 days. *See* Code Civ. Proc. § 581d (“All dismissals ordered by the court shall be in the form of a written order signed by the court and filed in the action and those orders when so filed shall constitute judgments and be effective for all purposes....”); *Powell v. County of Orange* (2011) 197 Cal.App.4th 1573, 1575 (“an order of dismissal is ineffective as a judgment under Code of Civil Procedure section 581d ... unless it is in writing, signed by the trial court, and filed.”).

Defendant’s Motion for Reasonable Accommodation

Defendant’s motion for reasonable accommodation of his disabilities under the Americans with Disabilities Act and Rule of Court 1.100, is granted in part.

Rule 1.100 states and implements the policy of the California courts to “ensure that persons with disabilities have equal and full access to the judicial system.” Rule of Court 1.100(b).

“Accommodations” are defined as

actions that result in court services, programs, or activities being readily accessible to and usable by persons with disabilities. Accommodations may include making reasonable modifications in policies, practices, and procedures; furnishing, at no charge, to persons with disabilities, auxiliary aids and services, equipment, devices, materials in alternative formats, readers, or certified interpreters for persons with hearing

impairments; relocating services or programs to accessible facilities; or providing services at alternative sites. Although not required where other actions are effective in providing access to court services, programs, or activities, alteration of existing facilities by the responsible entity may be an accommodation.

Rule 1.100(a)(3) (italics added).

Under Rule 1.100(c)(1), requests for an accommodation “may be presented ex parte on a form approved by the Judicial Council, in another written format, or orally.” Requests “must include a description of the accommodation sought, along with a statement of the impairment that necessitates the accommodation. The court, in its discretion, may require the applicant to provide additional information about the impairment.” Rule 1.100(c)(2).

Once the request is submitted, the court “must consider, but is not limited by, California Civil Code section 51 *et seq.*, the provisions of the Americans With Disabilities Act of 1990, and other applicable state and federal laws in determining whether to provide an accommodation or an appropriate alternative accommodation.” Rule 1.100(e)(1).

Under Title II of the ADA, “no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.” 42 U.S.C. § 12312. Similarly, California's Unruh Civil Rights Act provides that “[a]ll persons within the jurisdiction of this state are free and equal, and no matter what their ... disability, medical condition ... are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever.” Civ. Code § 51(b); *see also* Civ. Code § 54. Again, in accordance with these provisions, Rule 1.100 defines accommodations as “actions that result in court services, programs, or activities being readily accessible to and usable by persons with disabilities.” Rule 1.100(a)(3).

The court may deny a request for an accommodation only when it determines that: (1) the applicant fails to satisfy the requirements of the rule; (2) the requested accommodations “would create an undue financial or administrative burden on the court;” or (3) the requested accommodation “would fundamentally alter the nature of the service, program, or activity.” Rule 1.100(f); *see In re Marriage of James M. and Christine J.C.* (2008) 158 Cal.App.4th 1261, 1273 (outlining same requirements).

At bar, Defendant moves for appointment of legal counsel at county expense or alternative accommodations in connection with his reported disability. Plaintiff opposes the motion to the extent it seeks appointed counsel at county expense, but otherwise “remains open” to “reasonable procedural accommodations.”¹

The Court concludes that alternative accommodations in keeping with those suggested by Mr. Taylor are appropriate, reasonable and more than adequate to address Mr. Taylor’s disabilities

¹ The Court has reviewed all public and sealed filings in connection with the instant motion including the sealed filing of Mr. Taylor from his health care provider.

and to ensure he has equal and full access to the judicial system in connection with the instant lawsuit. Those accommodations shall be as follows:

- First, to the extent that Mr. Taylor is unable to be prepared for oral argument on the normal hearing date after a tentative ruling is posted, he may request postponement of oral argument for a reasonable period of time.
- Second, to the extent that Mr. Taylor needs time to process oral argument made by the opposing party, Mr. Taylor may request a short recess in order to prepare any oral rebuttal arguments, and/or request an opportunity to provide rebuttal argument in writing within a reasonable period of time after argument is completed.
- Third, under the Local Rules, law and motion argument is generally limited to five minutes per side. To the extent that Mr. Taylor needs additional time to present oral argument, he may request additional reasonable argument time.
- Fourth, the Rules of Civil Procedure, the Local Rules and orders of the Court specify deadlines and/or required formatting for written submissions by the parties during pre-trial proceedings. To the extent that Mr. Taylor needs additional time to submit the same, he may request the Court to extend those deadlines for a reasonable period of time. The Court will be prepared to accept written submissions from Mr. Taylor that substantially comply with required formatting requirements, even if not in full compliance with the same. In the alternative, if some document should fail to be substantially compliant, the Court, upon request, will consider a reasonable extension of time for resubmission of the same.
- Fifth, to the extent that any proceedings are extended/lengthy, the Court (in addition to its normally scheduled breaks) will also, upon request, take additional reasonable breaks to provide Mr. Taylor an opportunity for respite.

The Court notes that it previously granted temporary accommodations to Mr. Taylor. *See, e.g.*, 2/13/26 R.T. describing 10/8/25 ruling regarding temporary accommodations. The Court has had numerous opportunities to observe the written and oral advocacy of Mr. Taylor to date (with the benefit of those accommodations) and finds that Mr. Taylor, to date, has been fully able to zealously and competently advocate on his behalf. The Court is confident he will be able to continue his zealous and competent advocacy hereafter with the suggested accommodations and will continue to have a full and fair opportunity to present his case.

Conversely, Mr. Taylor has *not* presented sufficient evidence to warrant appointment of counsel for this particular case, that is, he has failed to demonstrate that appointed counsel is an appropriate or reasonable accommodation given the limitations he attributes to his disabilities.

A few additional observations are in order. First, the accommodation requested, appointment of counsel in a civil case, is substantially different from the services the courts provide to nondisabled *pro se* litigants in most civil litigation. No California court or statute has established a general due process right to counsel in civil cases. *See County of Santa Clara v. County*

Superior Court (1992) 2 Cal.App.4th 1686, 1690, n. 3; *Hunt v. Hackett* (1973) 36 Cal.App.3d 134, 137-138; *Walker v. State Bar of California* (1989) 49 Cal.3d 1107, 1116.² Denying Taylor appointed counsel will not prevent him from receiving a service that the court otherwise provides.³

Second, it appears, under the circumstances of this case, that appointed counsel would exceed Rule 1.100's policy of providing disabled persons with full and equal access to court services, programs or activities. An "attorney's role" is to serve "as the client's confidential advisor and advocate, a loyal representative whose duty it is to present the client's case in the most favorable possible light." *U.S. v. Arthur Young & Co.* (1984) 465 U.S. 805, 817. Appointed counsel here would take on a role far beyond basic provision of full and equal access to court services and proceedings.

3. CU0002207 Deborah J. Carver vs. Michael W. Horner

On the Court's motion, the hearing regarding Plaintiff/Appellant Carver's amended, proposed settled statement is vacated.

Plaintiff/Appellant elected in her December 23, 2025, notice designating the record on appeal to use a settled statement as the record of the oral proceedings in the superior court. *See* Rules of Court, rule 8.137. Given that Defendant/Respondent Horner did not file a notice under Rule 8.137(b)(4)(A), electing to provide a reporter's transcript, Plaintiff/Appellant was obligated to file a proposed statement in the superior court within 30 days of December 23, 2025, that is, by on or about January 22, 2026. Plaintiff/Appellant then proceeded to file various *untimely* proposed settled statements from February 17, 2026 to February 25, 2026. The operative *untimely* amended proposed statement, filed February 25, 2026, then was *improperly* noticed for hearing on March 20, 2026. *See* Rules of Court, rule 8.137(f)(1). ("No hearing will be held unless ordered...") Judge Timothy Fall issued a tentative ruling in connection with the March 20, 2026, hearing, and continued the hearing to April 3, 2026 because Plaintiff had failed to notice her request for oral argument as required. *See* Local Rule 4.05.03, Rules of Court, rule 3.1308(a)(1). To date, it does not appear that Defendant/Respondent has filed his response as required (within 20 days of appellant's service of the proposed statement). *See* Rules of Court, rule 8.137(e).

Defendant/Respondent is directed to file his response by no later than April 23, 2026. Thereafter, any party may seek to set a review hearing, which will be set in the Court's discretion. *See* Rules of Court, rule 8.137(f)(1).

The parties are reminded of their obligation to be familiar with and abide by all applicable Rules of Procedure, Rules of Court and Local Rules. The Clerk shall serve a copy of the minutes reflecting this order on all parties.

²"[T]he right to counsel [in a civil case] has been recognized to exist only where the litigant may lose his physical liberty if he loses the litigation." *Iraheta v. Superior Court* (1999) 70 Cal.App.4th 1500, 1503, 1508. There is no such risk here.

³ To the Court's knowledge, no published California decision has ever held that appointed counsel is an appropriate or required accommodation.

4. CU0002489 Matthew William Vickers vs. Ethan Oliver Ralph

Defendant Ralph's special motion to strike under Code of Civil Procedure section 425.16 (Anti-SLAPP Motion) is granted in part as described herein. His request for fees and costs is denied.

Oversized Brief

Subject to exceptions which do not apply here, under California Rules of Court, rule 3.1113(d), "no opening ... memorandum may exceed 15 pages." Cal. Rules of Court, rule 3.1113(d). The memorandum submitted in support of the present motion is 24 pages. The Court's records reflect that plaintiff did not file an appropriate application with the Court requesting permission to file a longer memorandum. *See* Cal. Rules of Court, rule 3.1113(e). That stated, the Court, in the exercise of its discretion, will consider the moving papers in their entirety. Defendant is admonished to comply with the California Code of Civil Procedure and the California Rules of Court.

Request for Judicial Notice

At bar, Defendant seeks judicial notice of a complaint filed in CU0001860, Ralph Decl. ¶ 48 Exhibit 10, but fails to make such request in a separate document as required. *See* Cal. Rules of Court, Rule 3.1113(l) ("Any request for judicial notice must be made in a separate document listing the specific items for which notice is requested and must comply with rule 3.1306(c)."). Plaintiff does not object. The Court grants the request. Judicial notice will be limited to the fact the document was filed, but not of the truth of its contents. *See Espinoza v. Calva* (2008) 169 Cal.App.4th 1393, 1396. Defendant is again admonished to comply with all applicable procedural law.

Legal Standard for Anti-SLAPP Motion

"Code of Civil Procedure section 425.16 sets out a procedure for striking complaints in harassing lawsuits that are commonly known as SLAPP suits ... which are brought to challenge the exercise of constitutionally protected free speech rights." *Kibler v. Northern Inyo County Local Hospital Dist.* (2006) 39 Cal.4th 192, 196, 46 Cal.Rptr.3d 41, 138 P.3d 193. A cause of action arising from a person's act in furtherance of the "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 claim will prevail. Code Civ. Proc., § 425.16, subd. (b)(1). "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. 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. [Citation.] 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. We have described this second step as a

‘summary-judgment-like procedure.’ [Citation.] 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. [Citation.] ‘[C]laims with the requisite minimal merit may proceed.’ ” *Baral, supra*, 1 Cal.5th at pp. 384-385, 205 Cal.Rptr.3d 475, 376 P.3d 604, fn. omitted.) ... As to the second step, a plaintiff seeking to demonstrate the merit of the claim “may not rely solely on its complaint, even if verified; instead, its proof must be made upon competent admissible evidence.” *San Diegans for Open Government v. San Diego State University Research Foundation* (2017) 13 Cal.App.5th 76, 95, 218 Cal.Rptr.3d 160; *see Grenier v. Taylor* (2015) 234 Cal.App.4th 471, 480, 183 Cal.Rptr.3d 867; *City of Costa Mesa v. D’Alessio Investments, LLC* (2013) 214 Cal.App.4th 358, 376, 154 Cal.Rptr.3d 698; *Paiva v. Nichols* (2008) 168 Cal.App.4th 1007, 1017, 85 Cal.Rptr.3d 838.

Monster Energy Co. v. Schechter (2019) 7 Cal.5th 781, 788 (parentheses omitted).

In addition:

Analysis of an anti-SLAPP motion is not confined to evaluating whether an entire cause of action, as pleaded by the plaintiff, arises from protected activity or has merit. Instead, courts should analyze each claim for relief — each act or set of acts supplying a basis for relief, of which there may be several in a single pleaded cause of action — to determine whether the acts are protected and, if so, whether the claim they give rise to has the requisite degree of merit to survive the motion.

Bonni v. St. Joseph Health System (2021) 11 Cal.5th 995, 1010.

Step One: Conduct in Furtherance of Right to Free Speech

Defendant argues, among other things, that “allegations by Plaintiff’s ex-wife that Plaintiff raped her are under consideration by the Nevada County District Attorney and thus constitute constitutionally protected free speech in connection with a public issue.” Mot. 12:11-13. The Court agrees based on the record presented.

“[Code of Civil Procedure] [s]ection 425.16, subdivision (b)(1) expressly makes subject to a special motion to strike ‘[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 or California Constitution in connection with a public issue....’ ” *Briggs v. Eden Council for Hope & Opportunity* (1999) 19 Cal.4th 1106, 1113. “For the statute’s purposes, an ‘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: ... (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....” *Ibid.*, citing 425.16(e)(2). “Thus, plainly read, section 425.16 encompasses any cause of action against a person arising from any statement or writing made ... in connection with an issue under consideration or review by, an official proceeding or body.” *Ibid.* Statements made in connection with an official

proceeding need not also be shown to pertain to a matter of public interest. *Id.* at 1113-1114. Moreover, statements made in connection with an issue under consideration by a district attorney can be within the ambit of the anti-SLAPP statute. *Schaffer v. City and County of San Francisco* (2008) 168 Cal.App.4th 992, 1004 (“by demonstrating that Fewer's and Haggett's alleged statements were in connection with an issue under consideration by the district attorney, respondents made a prima facie showing that the acts underlying Schaffer's causes of action are within the ambit of the anti-SLAPP statute.”). Finally, a court may properly look to the moving defendant’s declaration to determine whether they engaged in protected or unprotected activity for purposes of the first step assessment. *Salma v. Capon* (2008) 161 Cal.App.4th 1275, 1286, citing *Brill Media Co., LLC v. TCW Group, Inc.* (2005) 132 Cal.App.4th 324, 330.

At bar, Defendant declares he became aware in early 2025 that the ex-wife of Plaintiff allegedly accused Plaintiff of rape and those accusations resulted in “an active investigation on the part of the Nevada County Sheriff's Department.” The ex-wife confirmed to Defendant that the allegations of rape were true on a date uncertain thereafter. Defendant then made a February 26, 2025, public records request for the November 7, 2024 report filed by the ex-wife reporting that she was the victim of sexual assault by Plaintiff. The Sheriff’s Office indicated that the requested report was “in the hands of” the Nevada County District Attorney.” See Ralph Decl. ¶¶ 23-26, 29, 32-34, 46 and Exhibit 8, 48 and Exhibit 10. In light of this, the Court is satisfied that the November 19 and November 20, 2025 alleged defamatory statements by Defendant, see Complaint ¶¶ 8, 9, constitute oral statements made in connection with an issue now under consideration or review by the Nevada County District Attorney, an official proceeding or body. Defendant has made a sufficient prima facie showing that the challenged claim arises from activity protected by Code of Civil Procedure section 425.16.

Step Two: Probability of Success

Defendant contends that Plaintiff cannot establish a probability of success as to his claims. Mot. 15:3-4. In particular, he argues that Plaintiff “cannot meet his burden of establishing by ‘clear and convincing evidence that the allegedly defamatory statements were made with knowledge of their falsity or with reckless disregard of their truth or falsity’ because he has no evidence that ‘defendant [Ralph] in fact entertained serious doubts as to the truth of his publication.’ ” Mot. 20:19-24. The Court agrees in limited part only.

The elements of a claim for defamation depend on whether plaintiff is a public figure or a private figure and whether it concerns a public or private matter. For a private figure, the elements for a defamation cause of action in general are “(1) a publication that is (2) false, (3) defamatory, (4) unprivileged, and (5) has a natural tendency to injure or causes special damage.” See *John Doe 2 v. Superior Court* (2016) 1 Cal.App.5th 1300, 1312. “If the person defamed is a public figure, he cannot recover unless he proves, by clear and convincing evidence [citation], that the libelous statement was made with “ ‘actual malice’—that is, with knowledge that it was false or with reckless disregard of whether it was false or not.’ ” *Reader's Digest Assn. v. Superior Court* (1984) 37 Cal.3d 244, 256; California Civil Jury Instructions (CACI) 1700. Similarly, if the defamation involves an issue of public concern, proof of actual malice is necessary to recover presumed or punitive damages even if the plaintiff is not a public figure. *Brown v. Kelly Broadcasting Co.* (1989) 48 Cal.3d 711, 747; CACI 1702. Finally, if the defamation relates to a private figure, in connection with a private matter, a plaintiff must prove negligence to recover

any damages. *Brown*, 48 Cal.3d at 747; *Carney v. Santa Cruz Women Against Rape* (1990) 221 Cal.App.3d 1009, 1016, CACI 1704.

At bar, the Court has carefully considered the declaration of Plaintiff submitted, in part, as evidence in connection with his claims. The Court addresses the defamation claim premised on the allegation of rape. The Court assumes, without deciding, that the defamation involved an issue of public concern or a limited public figure. Plaintiff has presented evidence that Defendant made *per se* defamatory statements to third parties about Plaintiff committing rape, a crime, and that the statements were false. Plaintiff has presented evidence that the very complaint utilized by Defendant to obtain the original information as to the alleged rape, included Plaintiff's denials of the same. Moreover, Plaintiff has declared that the rape allegations are false. Vickers Decl. ¶¶ 3-4, 8-12. This evidence and the inferences therefrom constitute sufficient that Defendant repeated the rape allegations with knowledge that it was false or with reckless disregard of whether it was false. Plaintiff has met his *prima facie* factual showing sufficient to sustain a judgment as to defamation related to the allegation of rape.⁴

The analysis is different for the claim of defamation predicated on “suggestions that Plaintiff Vickers was actively attempting to kill his ex-wife. See Complaint ¶ 9. Plaintiff has made no *prima facie* factual showing sufficient to sustain a favorable judgment as to these statements for either defamation *per se* or *per quod*. See, e.g., CACI 1700-1705.

The same can be said of Defendant's negligence claim. See Complaint ¶¶ 8, 9, 16, 17. Assuming *arguendo* that Plaintiff has properly alleged a claim of negligence, Plaintiff has made no *prima facie* factual showing sufficient to sustain a favorable judgment against Defendant for negligently making the statements as to Plaintiff raping or attempting to kill his ex-wife. See *Woolard v. Regent Real Estate Services, Inc.* (2024) 107 Cal.App.5th 783, 791 (“The elements of a cause of action for negligence are duty, breach, causation, and damages.”), quoting *Melton v. Boustred* (2010) 183 Cal.App.4th 521, 529; CACI 400. Specifically, there has been no evidentiary showing by Plaintiff that Defendant's negligence was a substantial factor in causing him harm or any damages related thereto.

Fees

Defendant argues he is entitled to “reasonable fees and costs or, in the alternative, monetary sanctions, under the Anti-SLAPP statute.” Mot. 30:1-3. Not so.

Code of Civil Procedure section 425.16 (c) (1) provides, in relevant part: “a prevailing defendant on a special motion to strike shall be entitled to recover that defendant's attorney's fees and costs.” “[The] decisional authority and the plain language of section 425.16, subdivision (c) supports the conclusion that the commonly understood definition of attorney fees ... applies with equal force to section 425.16 and a prevailing defendant is entitled to recover attorney fees *if represented by counsel.*” *Witte v. Kaufman* (2006) 141 Cal.App.4th 1201, 1208 (italics added), quoting *Ramona Unified School Dist. v. Tsiknas* (2005) 135 Cal.App.4th 510, 524. In any event, it cannot be said that Defendant prevailed. Each side prevailed in part.

⁴ The outcome would be the same if this was a private figure/matter defamation matter. Sufficient evidence has been presented to establish that Defendant failed to use reasonable care to determine the truth or falsity of the rape statements. See CACI 1704.

Defendant's motion is granted in part and denied in part as specified.

5. CU0002563 Rita Kramer v. County of Nevada et al

Plaintiff's January 8, 2026, motion to accept "late filing of complaint" is denied without prejudice. The complaint has been filed by the Clerk and apparently has not been served on Defendants. The filing of the complaint does not represent any sort of conclusion by the Court whether the claims therein are timely or otherwise. To the extent any party wishes to adjudicate the timeliness of the complaint, they must file, notice and serve an appropriate motion on all parties in compliance with Rules of Court, Rule 3.1110, *et. seq.*, and Code of Civil Procedure sections 1005 and 1010. The Clerk shall give notice of the minutes reflecting this order to Plaintiff and *all* Defendants.

6. CU0002182 County of Nevada v. Testate and Intestate Successors of Myrna Buettner

Appearances are required in connection with the June 18, 2025, petition for an order to abate a substandard building at 10121 Valley Drive, Rough and Ready, and appoint a receiver. The parties shall be prepared to discuss the status of the "as-is" sale described in the March 27, 2026 Declaration of Attorney Amanda Pope and April 1, 2026 (filed), letter of John Cooper.