Tentative Rulings for August 6, 2025
Department 501

For any matter where an oral argument is requested and any party to the hearing desires a remote appearance, such request must be timely submitted to and approved by the hearing judge. In this department, the remote appearance will be conducted through Zoom. If approved, please provide the department's clerk a correct email address. (CRC 3.672, Fresno Sup.C. Local Rule 1.1.19)

There may be no tentative ruling for the following cases. The hearing will go forward on these matters. If a person is under a court order to appear, he/she must do so. Otherwise, parties should appear unless they have notified the court that they will submit the matter without an appearance. (See California Rules of Court, rule 3.1304(c).) ***The above rule also applies to cases listed in this "must appear" section.***

23CECG01809 ***White Hills Trans, Inc. v. Singh***

The court has continued the following cases. The deadlines for opposition and reply papers will remain the same as for the original hearing date.

(Tentative Rulings begin at the next page)

Tentative Rulings for Department 501

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Tentative Ruling

Re: ***White Hills Trans, Inc. v. Singh***
Superior Court Case No. 23CECG01809

Hearing Date: August 6, 2025 (Dept. 501)

Motion: by Defense Counsel to be Relieved as Counsel

Tentative Ruling:

The court intends to deny the motion, without prejudice, for failure to submit a proof of service showing service of the motion on client Gureswak Singh. (Cal. Rules of Court, rule 3.1362(d).)

Explanation:

Under California Rule of Court, rule 3.1362(d), "[t]he notice of motion and motion, the declaration, and the proposed order must be served on the client and on all other parties who have appeared in the case. The notice may be by personal service, electronic service, or mail." (Cal. Rules of Court, rule 3.1362(d).)

Here, there is no proof of service of the moving papers on the client, Gursewak Singh, and as such the court intends to deny the motion.

Additionally, the order submitted does not include hearing information for the October 24, 2025, Trial Readiness Hearing.

Pursuant to California Rules of Court, rule 3.1312(a), and Code of Civil Procedure section 1019.5, subdivision (a), no further written order is necessary. The minute order adopting this tentative ruling will serve as the order of the court and service by the clerk will constitute notice of the order.

Tentative Ruling
Issued By: DTT (Judge's initials) on 8/1/2025 (Date).

(36)

Tentative Ruling

Re: ***Poonia Family Enterprises, LLC v. Valley Building Industries, LLC***
Superior Court Case No. 25CECG00197

Hearing Date: August 6, 2025 (Dept. 501)

Motion: by Petitioner to Enforce Settlement

Tentative Ruling:

To deny without prejudice. (Code Civ. Proc., § 1010; Cal. Rules of Court, rule 3.1110(a).)

Explanation:

Untimely Opposition and Reply

"All papers opposing a motion so noticed shall be filed with the court and a copy served on each party at least nine court days, and all reply papers at least five court days before the hearing." (Code Civ. Proc., § 1005, subd. (b).) "No paper may be rejected for filing on the ground that it was untimely submitted for filing. If the court, in its discretion, refuses to consider a late filed paper, the minutes or order must so indicate." (Cal. Rules of Court, rule 3.1300(d).) Here, Respondent filed and served its opposition on July 28, 2025, only six court days prior to the hearing. As a result, Petitioner's reply was also untimely, as it was filed on July 31, 2025, only three court days prior to the hearing.

Since both sets of papers were untimely, the opposition and reply are **not** considered in this ruling. (Cal. Rules of Court, rule 3.1300(d).)

Motion Defects

"Notices must be in writing, and the notice of a motion . . . must state . . . the grounds upon which it will be made, and the papers, if any, upon which it is to be based." (Code Civ. Proc., § 1010.) "A notice of motion must state in the opening paragraph the nature of the order being sought and the grounds for issuance of the order." (Cal. Rules of Court, rule 3.1110(a).)

Although the relief sought by the motion is to enforce a settlement agreement, the motion does not provide any authority that allows the court to do so. Petitioner moves under Evidence Code section 1123, which governs rules regarding the *admissibility into evidence* of a settlement agreement prepared in the course of, or pursuant to, a mediation. Evidence Code section 1123 does not reach the issue of enforceability of such a settlement agreement.

And even if such authority were presented, Petitioner fails to meet its burden in providing evidence of a breach of the settlement agreement, i.e., there is no evidence that a payment was not made. [1]

Therefore, the motion is procedurally defective and cannot be granted.

Pursuant to California Rules of Court, rule 3.1312(a), and Code of Civil Procedure section 1019.5, subdivision (a), no further written order is necessary. The minute order adopting this tentative ruling will serve as the order of the court and service by the clerk will constitute notice of the order.

Tentative Ruling
Issued By: DTT on 8/4/2025.
(Judge's initials) (Date)

[1] The court notes that even if the reply papers were timely, the court would not consider any new evidence first raised in the reply papers. (*Jay v. Mahaffey* (2013) 218 Cal.App.4th 1522, 1537-1538.)

(35)

Tentative Ruling

Re: ***Hall v. City of Parlier***
Superior Court Case No. 24CECG04987

Hearing Date: August 6, 2025 (Dept. 501)

Motion: by Defendant City of Parlier on Demurrer

Tentative Ruling:

To sustain the demurrer as to the third cause of action for retaliation, without leave to amend. (Code Civ. Proc., § 430.10, subd. (e).)

To sustain the demurrer as to the sixth, eighth and ninth causes of action for breach of implied covenant, intentional infliction of emotional distress and negligent infliction of emotional distress, with leave to amend. (Code Civ. Proc., § 430.10, subd. (e).)

To overrule the demurrer as to the fourth cause of action for defamation. (Code Civ. Proc., § 430.10, subd. (e).)

Plaintiff Sonia Hall shall file and serve a further amended complaint within 10 days of the date of service of this minute order by the clerk. All new allegations shall be in **boldface**.

Explanation:

Defendant City of Parlier ("defendant") demurs to the First Amended Complaint ("FAC") filed by plaintiff Sonia Hall ("plaintiff"). The FAC states nine causes of action: (1) violation of Labor Code section 1102.5, subdivision (c), for retaliation based on refusal to engage in illegal activity; (2) violation of Labor Code section 1102.5, subdivision (b) for whistleblower retaliation; (3) violation of Labor Code section 98.6 for retaliation; (4) defamation; (5) breach of contract; (6) breach of the implied covenant of good faith and fair dealings; (7) violation of Labor Code section 1198.5 for failure to respond to demand for employee records; (8) intentional infliction of emotional distress; and (9) negligent infliction of emotional distress. Defendant challenges the third, fourth, sixth, eighth and ninth causes of action based on immunity from suit; and the third, fourth, eighth and ninth causes of action based on insufficient facts.

On demurrer, a court's function is limited to testing the legal sufficiency of the complaint. A demurrer is simply not the appropriate procedure for determining the truth of disputed facts. (*Fremont Indemnity Co. v. Fremont General Corp*. (2007) 148 Cal.App.4th 97, 113-114.) In determining a demurrer, the court assumes the truth of the facts alleged in the complaint and the reasonable inferences that may be drawn from those facts. (*Miklosy v. Regents of the Univ. of Cal.* (2008) 44 Cal.4th 876, 883.) The court must determine if the factual allegations of the complaint are adequate to state a cause of action under any legal theory. (*Barquis v. Merchants Collection Assn.* (1972) 7 Cal.3d 94, 103.)

Contentions, deductions and conclusions of law, however, are not presumed as true. (*Aubry v. Tri-City Hospital Dist.* (1992) 2 Cal.4th 962, 967.) A plaintiff is not required to plead evidentiary facts supporting the allegation of ultimate facts; the pleading is adequate if it apprises the defendant of the factual basis for the plaintiff's claim. (*Perkins v. Superior Court* (1981) 117 Cal.App.3d 1, 6.)

Third Cause of Action – Immunity

Defendant submits that as to the third cause of action, which arises out of the Labor Code, it is immune from suit. On the third cause of action, Labor Code section 98.6 provides that a person shall not discharge an employee or in any manner retaliate because the employee engaged in certain conduct including as described by Labor Code section 1102.5. On its face, Labor Code section 98.6 does not authorize a direct action against a public employer. Neither does plaintiff in opposition cite to an authorizing statute. Rather, plaintiff cites to the Fair Employment and Housing Act, which does expressly identify employers as including, among other public entities, cities. (*E.g.*, Gov. Code, § 12926, subd. (d).) Comparatively, Labor Code section 98.6 merely refers to "employer" as additionally defined by Labor Code sections 2810.3 and 6400. (Lab. Code, § 98.6, subd. (f).)[1] Other Labor Code sections are explicit in whether public employers are implicated. (*E.g.*, *id.*, § 90.2, subd. (e) [applying provisions of this specific section regarding certain notices to employees of both public and private employers]; § 1106 [defining 'employee' under Labor Code section 1102.5 to include individuals employed by, among others, cities].) In the absence of express language authorizing an action under Labor Code section 98.6 against defendant as a city, the demurrer to third cause of action is sustained, without leave to amend.

Fourth Cause of Action – Defamation

Defendant submits that the FAC fails to state sufficient facts. It appears generally uncontested that plaintiff, as the former city manager of defendant, would be a public figure for the purposes of defamation. The elements of defamation are (1) a publication that (2) is false, (3) defamatory, (4) unprivileged, and (5) has a natural tendency to injure or cause special damages. (*Jackson v. Mayweather* (2017) 10 Cal.App.5th 1240, 1259.) If a person defamed is a public figure, she cannot recover unless she proves, by clear and convincing evidence, that the statement was made with actual malice, knowledge that the statement was false or with reckless disregard of whether the statement is false or not. (*Id.* at pp. 1259-1260.)

Here, the FAC alleges false statements. (FAC, ¶¶ 65 and 66.) The FAC alleges that the statements were written. (*Id.*, ¶ 65.) The FAC alleges that these statements were without privilege. (*Id.*, ¶ 67.) The FAC alleges that the statements are damaging. (*Id.*, ¶ 66.) The FAC alleges that the statements were made while: purposefully avoiding the truth, failing to investigate the probable falsity, and knowing of the falsity, and made the statements due to former disputes and grudges. (*Id.*, ¶ 68.) As to publication, the FAC alleges that plaintiff was under strong pressure to communicate these false statements

[1] Notably, Labor Code section 2810.3 specifically excludes cities from its definition. (Lab. Code, § 2810.3, subd. (a)(1)(B)(iii).)

to prospective employers, family and friends and did republish the statements. (*Id.*, ¶¶ 67, 68.)

For a valid defamation claim, the general rule is that the publication must be done by the defendant. (*Live Oak Publishing Co. v. Cohagan* (1991) 234 Cal.App.3d 1277, 1284.) There is an exception when it is foreseeable that the defendant's act would result in a plaintiff's publication to a third person. (*Davis v. Consolidated Freightways* (1994) 29 Cal.App.4th 343, 373.) For the exception to apply, the defamed party must operate with a strong compulsion to republish the defamatory statement, and the circumstances creating the compulsion must be known to the originator of the statement at the time he or she makes it to the defamed individual. (*Ibid.*) In sum, to claim self-publication, there must be (1) a strong compulsion to republish; (2) the defendant knew of the compulsion at the time of making the false statement; and (3) makes the false statement to the plaintiff.

The FAC alleges that there is a strong compulsion to republish to, among others, prospective employers. (FAC, ¶ 68.) The FAC alleges that defendant knew plaintiff would be so compelled. (*Id.*, ¶ 67.) The FAC alleges that the statements of the written memorandum were made to plaintiff, who thereon provided a written response. (*Id.*, ¶¶ 31, 65, 66.)

Defendant argues that the cause of action is insufficiently specific, failing to identify who made the written defamatory statements and how the statements were adopted by defendant.

A plaintiff is not required to plead evidentiary facts supporting the allegation of ultimate fact; the pleading is adequate if it apprises defendant of the factual basis for plaintiff's claim. (*Perkins v. Superior Court* (1981) 117 Cal.App.3d 1, 6.) Stated another way, 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. (*Youngman v. Nevada Irrigation Dist.* (1969) 70 Cal.2d 240, 245.) The particularity required in pleading facts depends on the extent to which the defendant in fairness needs detailed information that can be conveniently provided by the plaintiff; less particularity is required where the defendant may be assumed to have knowledge of the facts equal to that possessed by the plaintiff. (*Jackson v. Pasadena City School Dist.* (1963) 59 Cal.2d 876, 879; *see also Foster v. Sexton* (2021) 61 Cal.App.5th 998, 1028 [finding that "less specificity is required in pleading matters of which the defendant has superior knowledge."])

The FAC is not so vague that defendant is unable to ascertain what writing is at issue and how it was used. The FAC points to a letter dated April 3, 2024, titled "Client Memorandum", related to a letter of termination as to Neal Costanzo dated April 10, 2024, and included the topic of an investigative report conducted by Rachele Berglund. (FAC, ¶ 65.) Defendant is sufficiently appraised of enough information to ascertain what it is called to answer.

Defendant argues that the allegation of malice is conclusory. It is conclusory. However, it is an ultimate fact. Sufficient facts were alleged in support of the conclusion. Namely, plaintiff alleges that defendant frustrated plaintiff's efforts to perform her duties

as City Manager, after which defendant and its council became hostile displayed over multiple acts. (FAC, ¶¶ 14-31.)

Defendant argues that the alleged defamatory statements are privileged. This is a contention. Whether a client memorandum constituted a discharge of official duties, was involved in a legislative proceeding or other official proceeding authorized by law, or is a fair and true report of a public proceeding lawfully convened, is not demonstrated on the face of the FAC. (Civ. Code, § 47.) It is not present on the face of the FAC that the memorandum was a consequence, as defendant submits, of a city council meeting. Though the FAC alleges that defendant issued a notice regarding a closed session meeting, the FAC alleges that plaintiff was provided a copy of a "Concluding Report", not the notice of a meeting. (FAC, ¶ 31.) What defendant suggests is not in evidence as a matter of demurrer.

For similar reasons, defendant's argument that the acts alleged fall within Government Code immunity fail as to Government Code section 821.6. Government Code section 821.6 plainly provides "A public employee is not liable for injury caused by his instituting or prosecuting any judicial or administrative proceeding within the scope of his employment, even if he acts maliciously and without probable cause." As plaintiff notes however, this section is to be narrowly construed. The California Supreme Court evaluated the purpose of Government Code section 821.6 and found that the legislative comments showed that the intent was to continue preexisting law immunizing public employees against liability for malicious prosecution. (*Leon v. County of Riverside* (2023) 14 Cal.5th 910, 925 [additionally noting that "Other available legislative history underscores the point that section 821.6 was principally directed to malicious prosecution claims and not other types of tort claims."]) The California Supreme Court expressly declined a broader reading of Government Code section 821.6. (*Id.* at pp. 926-928 ["In enacting section 821.6, the Legislature conferred absolute immunity against claims based on injuries caused by wrongful prosecutions, but not other types of injuries inflicted in the course of law enforcement investigations"]; *see id.* at p. 928 [noting the existence of the Government Claims Act as the Legislature's way to provide for public entity defense of claims].)

Defendant in light of this suggests that plaintiff's termination and related investigation was quasi-judicial to constitute a sort of prosecution. Defendant provides no authority to suggest that a termination constitutes a prosecution within the meaning of Government Code section 821.6.

Neither is it clear at this juncture that Government Code section 820.2 is implicated. Government Code section 820.2 immediately provides "Except as otherwise provided by statute", that "a public employee is not liable for an injury resulting from his act or omission where the act or omission was the result of the exercise of the discretion vested in him, whether or not such discretion be abused." As plaintiff argues in opposition, the purpose of this statute is to guard policymaking decisions. (*Sanborn v. Chronicle Pub. Co.* (1976) 18 Cal.3d 406, 414-415 *citing Johnson v. State of Cal.* (1968) 69 Cal.2d 782 ["In *Johnson*, we construed section 820.2 as conferring immunity with respect to 'basic policy decisions,' or activity which may be characterized as the 'planning' rather than the 'operational' level of decision making."]) Moreover, another statute, Government Code section 822.2 provides, "A public employee acting in the scope of his employment is not

liable for an injury caused by his misrepresentation, whether or not such misrepresentation be negligent or intentional, unless he is guilty of actual fraud, corruption or actual malice." Thus, any immunity is qualified that the policy making acts are not the product of, among other things, malice. (*See also Freeny v. City of San Buenaventura* (2013) 216 Cal.App.4th 1333, 1344 [harmonizing the immunity of Government Code section 820.2 and related statutes].)

For the above reasons, the demurrer as to the fourth cause of action for defamation is overruled.

Sixth Cause of Action – Breach of Implied Covenant
Eighth Cause of Action – Intentional Infliction of Emotional Distress
Ninth Cause of Action – Negligent Infliction of Emotional Distress

Neither party sufficiently address the issue raised by defendant as to immunity on the sixth cause of action for breach of the implied covenant of good faith and fair dealing. Defendant submits only that Government Code section 815 applies. The section is not as broad as defendant describes. Government Code section 815 abolishes common law tort liability for public entities. (*Miklosy v. Regents of the Univ. of Cal.*, *supra*, 44 Cal.4th at p. 899.) However, defendant's implied argument is that the breach of implied covenant cause of action arises out of tort law. Where a breach of a consensual contract term is not claimed or alleged, the only justification for asserting a separate cause of action for breach of the implied covenant is to obtain a tort recovery. (*Careau & Co. v. Security Pacific Business Credit, Inc.* (1990) 222 Cal.App.3d 1371, 1393-1395.) Though plaintiff argues that she brings the breach of the implied covenant to enforce the express terms of the contract, what she describes is a breach of contract action. "Courts will generally enforce the breach of a contractual promise through contract law, except when the actions that constitute breach violate a social policy that merits the imposition of tort remedies. [citations] The familiar paradigm of tortious breach of contract in this state is the insurance contract. There we relied on the covenant of good faith and fair dealing, implied in every contract, to justify tort liability." (*Erlich v. Menezes* (1999) 21 Cal.4th 543, 552-553; *see id.*, at p. 553-554 [finding that outside of the insurance context, a tortious breach of contract may arise where the breach is accompanied by fraud; deceit or undue coercion; or intentional breach intending or knowing that the breach will cause severe, unmitigable harm].)

Defendant likewise submits as to the eighth and ninth causes of action regarding emotional distress are barred under Government Code section 815 as common law torts.

Plaintiff opposes. Plaintiff submits that a public entity is liable to the extent that a public employee is liable. (Gov. Code, § 820.) If this be the bases for the sixth, eighth, and ninth causes of action that sound in tort, as defendant argues, the FAC fails to allege specific, or any, facts or acts by public employees. (*See also Lopez v. Southern Cal. Rapid Transit District* (1985) 40 Cal.3d 780, 795 [finding every fact material to the existence of

statutory liability must be pled with particularity].) The demurrer as to the sixth, eighth and ninth causes of action are sustained, with leave to amend.[2]

Pursuant to California Rules of Court, rule 3.1312(a), and Code of Civil Procedure section 1019.5, subdivision (a), no further written order is necessary. The minute order adopting this tentative ruling will serve as the order of the court and service by the clerk will constitute notice of the order.

Tentative Ruling
Issued By: DTT on 8/5/2025.
(Judge's initials) (Date)

[2] Defendant argues that the emotional distress causes of action, in any event, are barred by worker's compensation exclusivity. Defendant correctly notes that general acts of demotions, promotions, and criticisms of work practices that give rise to emotional distress may not avoid the exclusive remedies of the Labor Code. (*Cole v. Fair Oaks Fire Protection Dist.* (1987) 43 Cal.3d 148, 160.) As alleged in the FAC however, the basis of the emotional distress claims include treatment above and beyond "actions which are a normal part of the employment relationship", including retaliation. (*E.g.*, FAC, ¶ 96.)