

Tentative Rulings for March 26, 2026
Department 502

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 are no tentative rulings 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.*

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

24CECG02662 *Torrey Arguello, JR v. Moran Law Firm* is continued to Tuesday, May 5, 2026, at 3:30 p.m. in Department 502.

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Tentative Ruling

Re: ***Sanger Fence Company, Inc. v. Security Contractors Services, Inc.***

Superior Court Case No. 25CECG03716

Hearing Date: March 26, 2026 (Dept. 502)

Motion: Demurrer

Tentative Ruling:

To sustain the general demurrer to each cause of action of the complaint. (Code Civ. Proc. § 430.10, subd. (e).) To overrule the special demurrer for uncertainty. (Code Civ. Proc. § 430.10, subd. (f).) Plaintiff is granted 10 days' leave to file the First Amended Complaint, which will run from service by the clerk of the minute order. **New allegations must be set in boldface type.**

Explanation:

The function of a demurrer is to test the sufficiency of a plaintiff's pleading by raising questions of law. (*Plumlee v Poag* (1984) 150 Cal.App.3d 541, 545) The truth of the facts alleged in the complaint are assumed true as well as the reasonable inferences that may be drawn from those facts. (*Miklosy v. Regents of University of California* (2008) 2 Cal.4th 876, 883; see also *Daniels v. Select Portfolio Servicing, Inc.* (2016) 246 Cal.App.4th 1150, 1168 [actual reliance in support of a fraud claim reasonably inferable from the plaintiff's complaint]; Code Civ. Proc., 452 ["In the construction of a pleading, for the purpose of determining its effect, its allegations must be liberally construed, with a view to substantial justice between the parties."].)

A general demurrer, "admits the truth of all material factual allegations in the complaint;" the plaintiff's "ability to prove these allegations, or the possible difficulty in making such proof does not concern the reviewing court" (*Alcorn v. Anbro Engineering, Inc.* (1970) 2 Cal.3d 493, 496; *Stella v. Asset Management Consultants, Inc.* (2017) 8 Cal.App.5th 181, 190 ["We assume the truth of the properly pleaded factual allegations, facts that reasonably can be inferred from those expressly pleaded and matters of which judicial notice has been taken."].)

The California Supreme Court has consistently held that a plaintiff is required only to set forth the essential facts of his or her case with reasonable precision and with particularity sufficient to acquaint a defendant with the nature, source and extent of his cause of action. (*Ludgate Ins. Co. v. Lockheed Martin Corp.* (2000) 82 Cal. App. 4th 592, 608, quoting *Youngman v. Nevada Irr. Dist.* (1969) 70 Cal. 2d 240, 245; and see *Elder v. Pacific Bell Telephone Co.* (2012) 205 Cal. App. 4th 841, 858 ["Even as against a special demurrer, a plaintiff is required only to set forth in his complaint the essential facts of his case with reasonable precision and with particularity sufficiently specific to acquaint the defendant of the nature, source, and extent of his cause of action."].) Nothing more is required. (*Alch v. Superior Court* (2004) 122 Cal. App. 4th 339, 390.) Indeed, there is no

need to require specificity in the pleadings because modern discovery procedures necessarily affect the amount of detail that should be required in a pleading. (*Doheny Park Terrace Homeowners Ass'n, Inc. v. Truck Ins. Exchange* (2005) 132 Cal. App. 4th 1076, 1099.) In addition, less particularity is required where the defendant may be assumed to have knowledge of the facts equal to that possessed by the plaintiff. (*Ludgate Ins. Co. v. Lockheed Martin Corp.*, supra, 82 Cal. App. 4th at p. 608.)

Special Demurrer for Uncertainty

Defendant demurs to each cause of action on the grounds it is uncertain. Section 430.10, subdivision (f) authorizes a party against whom a complaint has been filed to object by special demurrer to the pleading on the ground that "[t]he pleading is uncertain. As used in this subdivision, 'uncertain' includes ambiguous and unintelligible." Demurrers for uncertainty are disfavored. (*Khoury v. Maly's of California, Inc.* (1993) 14 Cal.App.4th 612, 616.) A demurrer for uncertainty may be sustained when the complaint is drafted in a manner that is so vague or uncertain that the defendant cannot reasonably respond, e.g., the defendant cannot determine what issues must be admitted or denied, or what causes of action are directed against the defendant. (*Ibid.*) Demurrers for uncertainty are appropriately overruled where "ambiguities can reasonably be clarified under modern rules of discovery." (*Ibid.*)

Every cause of action is pled in ordinary language. Defendant should be able to determine what issues must be admitted or denied. Accordingly, the complaint is not uncertain and the special demurrer is overruled.

First Cause of Action: Breach of Contract

A cause of action for damages for breach of contract is comprised of the following elements: (1) the existence of a contract, (2) plaintiff's performance or excuse for nonperformance, (3) defendant's breach, and (4) the resulting damages to plaintiff. (*Careau & Co. v. Security Pacific Business Center* (1990) 222 Cal.App.3d 1371, 1388.)

Where plaintiff alleges breach of contract, "the terms must be set out verbatim in the body of the complaint or a copy of the written agreement must be attached and incorporated by reference." (*Harris v. Rudin, Richman & Appel* (1999) 74 Cal.App.4th 299, 307). However, more recent California Supreme Court authority provides otherwise: "In an action based on a written contract, a plaintiff may plead the legal effect of the contract rather than its precise language." (*Construction Protective Services, Inc. v. TIG Specialty Ins. Co.* (2002) 29 Cal.4th 189, 198–199; see *Miles v. Deutsche Bank National Trust Company* (2015) 236 Cal.App.4th 394, 402 ["we are bound by our Supreme Court...plaintiff's failure either to attach or to set out verbatim the terms of the contract was not fatal to his breach of contract cause of action."]; see also *Pneucrete Corp. v. U.S. Fidelity & Guaranty Co.* (1935) 7 Cal.App.2d 733, 741–742 ["That a contract may be pleaded in its legal effect and need not be set forth *in haec verba* is thoroughly settled"].)

To sufficiently allege a contract's legal effect, plaintiff must allege the making of the contract, and then the substance of its relevant terms. (4 Witkin, Cal. Proc. (6th 2026) Plead. §§ 527-528.)

Here, the complaint alleges that on June 3, 2025 plaintiff and defendant entered into a contract for defendant to “process, pay for, and deliver material associated with open order Q529922 and repay Plaintiff \$433,466.86 for overage charges and fees associated with orders between 2021 through 2025” (Complaint, ¶ 7.) Defendant is alleged to have breached the contract by failing to pay the \$433,466.86. (*Id.*, ¶¶ 8, 15.) Plaintiff alleges it performed all terms and conditions pursuant to the contract. (*Id.*, ¶ 16.) The breach is alleged to result in damages in excess of \$849,686.97. (*Id.*, ¶ 17.) The complaint references the written agreement as an attachment to the complaint, however the exhibit is not attached. (*Id.*, ¶ 7.)

Defendant challenges the sufficiency of the allegations of the contract's terms to plead the legal effect in lieu of attaching the written agreement. The court agrees. The complaint omits allegations as to who on behalf of the two entity parties entered into the contract and fails to allege plaintiff's obligations under the contract to support it having performed all obligations under the contract. Accordingly the demurrer is sustained.

Second Cause of Action: Breach of the Covenant of Good Faith and Fair Dealing

In every contract or agreement there is an implied promise of good faith and fair dealing. This means that each party will not do anything to unfairly interfere with the right of any other party to receive the benefits of the contract; however, the implied promise of good faith and fair dealing cannot create obligations that are inconsistent with the terms of the contract. The elements of a cause of action for breach of the implied covenant of good faith and fair dealing are: (1) That plaintiff and defendant entered into a contract; (2) That plaintiff did all, or substantially all of the significant things that the contract required plaintiff to do or, that plaintiff was excused from having to do those things]; (3) That all conditions required for defendant's performance had occurred; (4) That defendant unfairly interfered with plaintiff's right to receive the benefits of the contract; and (5) That plaintiff was harmed by defendant's conduct. (Judicial Council of Cal. Civ. Jury Instrns. (February 2026) CACI No. 325.)

Defendant argues the cause of action is subject to demurrer due to plaintiff's failure to allege the separate contract(s) at issue in this cause of action. As pled, the cause of action alleges defendant's “covert and dishonest billing practices” and “deliberate misrepresent[ion]” of their charges and fees to defendant as the breach of covenant of good faith and fair dealing. (Complaint, ¶ 20.) This conduct appears to be the reason the parties entered into the contract for repayment alleged in paragraph 7 but the conduct itself is not alleged in connection with a separate contract to support this cause of action. As no contract is alleged regarding the billing practices that are the subject of this cause of action, no cause of action is stated. The demurrer is sustained.

Third Cause of Action: Fraud – Intentional Misrepresentation

Allegations of fraud must be pleaded “with specificity,” requiring the following elements: misrepresentation (false representation, concealment or nondisclosure); knowledge of falsity (“scienter”); intent to defraud, i.e., to induce reliance; justifiable reliance; and resulting damage (*Philipson & Simon v. Gulsvig* (2007) 154 Cal.App4th 347, 363.) Every element of a cause of action for fraud must be alleged in full, factually and specifically. (*Hills Transp. Co. v. Southwest Forest Industries, Inc.* (1968) 266 Cal.App.2d 702,

707.) Accordingly, the policy of liberal construction of the pleadings “will not ordinarily be invoked to sustain a pleading defective in any material respect[;]” instead, this “particularity requirement necessitates pleading facts which show how, when, where, to whom, and by what means the representations were tendered. (*Stansfield v. Starkey* (1990) 220 Cal.App.3d 59, 73, internal citations and quotation marks omitted.)

In the case at bench, plaintiff alleges defendant “misrepresented its fees and charges to Plaintiff from 2021 through 2025” and that “[u]nbeknownst to Plaintiff, Defendants added improper fuel surcharges in the total amount of \$37,482.84.” (Complaint, ¶¶ 25-26.) The generalized misrepresentations alleged are not sufficient to support the cause of action for fraud. It is unclear who made the purported misrepresentations and there are minimal factual allegations regarding the 2021 through 2025 course of dealing between the parties giving rise to the cause of action. The demurrer is sustained.

Fourth Cause of Action: Promissory Estoppel

The elements of a cause of action based on promissory estoppel are: (1) a promise clear and unambiguous in its terms; (2) reliance by the party to whom the promise is made; (3) his reliance must be both reasonable and foreseeable; and (4) the party asserting the estoppel must be injured by his reliance. (*Laks v. Coast Federal Savings & Loan Association* (1976) 60 Cal.App.3d 885, 890.)

Plaintiff alleges defendant promised it would forgive a debt balance in the amount of \$269,723.00, that defendant would process order Q529922 at no cost to plaintiff and that defendant would pay to plaintiff a balance of \$433,446.86 and that plaintiff relied on that promise when entering into a written agreement for the same. (Complaint, ¶¶ 32, 34.)

Defendant argues the allegations lack specificity as to who made the promise, when they were made, and how they were made to state the cause of action. Without addressing defendant's arguments as to specificity in pleading, defendant asserts the cause of action is pled in the alternative to the breach of contract claim should the court find no enforceable contract. Here, as with the breach of contract claim, there are insufficient allegations as to the person(s) on behalf of the defendant businesses who made the promises. The allegations as to reliance are circular in that plaintiff is essentially alleging that defendant made a promise to pay and in reliance on that promise plaintiff agreed to sign a written agreement reflecting the promise. There is no clear action or forbearance alleged on the part of plaintiff apart from accepting the promise to pay. The demurrer is sustained.

Fifth Cause of Action: Unfair Business Practices in Violation of Business and Professions Code § 17200

Statutory unfair competition is defined as “any unlawful, unfair, or fraudulent business act or practice.” (Bus. & Prof. Code § 17200.) The statute creates a right to sue for violations of other statutes even when those statutes do not themselves confer any standing for private actions or, perhaps, even when they create more limited standing for action. Business & Professions Code § 17204 grants standing in “actions for any relief

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Tentative Ruling

Re: ***Alejandra Silva v. Dulce Mendoza***
Superior Court Case No. 25CECG01759

Hearing Date: March 26, 2026 (Dept. 502)

Motion: By Plaintiff for Entry of Judgment Quieting Title After Default

Tentative Ruling:

To deny plaintiff's request for entry of judgment quieting title without prejudice.

Explanation:

Allegations of Complaint

On April 15, 2025, plaintiff Alejandra Vieyra Silva (Plaintiff) filed an unverified complaint (Complaint) with causes of action for: (1) quiet title; (2) unjust enrichment; and (3) declaratory relief/constructive trust. The defendant, Dulce C. Mendoza (Defendant) is Plaintiff's former sister-in-law (the brother of Plaintiff's late husband).

Plaintiff alleges she purchased a house located on Pine Street in Selma for \$145,000 in 2009. Plaintiff includes the required street address and legal description of the property in paragraph 6 of the Complaint. Because Plaintiff was unable to obtain a loan to purchase the house in her own name, Defendant agreed to help Plaintiff by adding Defendant's name to the mortgage. The lender required Defendant be placed on title to the house as a condition to obtain the loan. A copy of the recorded grant deed to the house is attached as exhibit A to the Complaint. The deed shows title vested in the names of "Alejandra Vieyra Silva, a single woman and Dulce C. Mendoza, a single woman as joint tenants."

When the house was purchased, Defendant promised to hold title for Plaintiff's benefit. Plaintiff alleges, "[A]t all times since she acquired the house in 2009, she held herself out as the true, lawful owner of the house." (Comp., ¶ 15.) She alleges she has made all of the mortgage payments for the house since she purchased it in 2009 and Defendant paid no part of the purchase price for the house. Plaintiff has repaired and maintained the house, paid all of the premiums for insurance coverage for the house and all of the property taxes since the 2009 purchase. Defendant has never resided at the house.

No Verified Complaint

Under statutory and case law, Plaintiff's unverified complaint cannot support a quiet title judgment. (Code Civ. Proc., § 761.020 [cause of action for quiet title must be verified]; *Lewis v. Superior Court* (1994) 30 Cal.App.4th 1850, 1866 [quiet title action cannot be maintained where complaint not verified as required by statute].) Before

Plaintiff can prevail in her quiet title action, she must file an amended complaint that includes her verification.¹

Prove-up Brief Must Supply Basis for Judgment

In lieu of a prove-up brief, Plaintiff has submitted authority in her attorney's declaration, but the declaration lacks the analysis of the essential elements to prove Plaintiff's alleged causes of action. For example, the prove-up brief should analyze the quiet title claim with reference the elements set forth in Code of Civil Procedure section 761.020, and the evidence to support the claim of adverse possession.

In general, the plaintiff in an action to quiet title by adverse possession must provide evidence of the following elements:

(1) Possession must be by actual occupation under such circumstances as to constitute reasonable notice to the owner. (2) It must be hostile to the owner's title. (3) The holder must claim the property as his own under either color of title or claim of right. (4) Possession must be continuous and uninterrupted for five years. (5) The holder must pay all the taxes levied and assessed upon the property during the period.

(*Dimmick v. Dimmick* (1962) 58 Cal.2d 417, 421, citations omitted.)

But an additional rule applies in the case of jointly-owned property, such as the joint tenancy at issue here. Exclusive possession by one tenant is deemed permissive until the tenant out of possession has notice that the cotenant's possession is hostile:

Where, as here, a claim of ownership by adverse possession is asserted against a cotenant additional principles become operative. It is settled law that the exclusive occupancy of jointly owned premises by a cotenant is deemed permissive and does not become adverse until the tenant *out of possession* has had either actual or constructive notice that the possession of the cotenant is hostile to him. [Citations.] As the court said in *Wilkerson v. Thomas* (1953) 121 Cal.App.2d 479,] 487–488: “A cotenant out of possession is entitled to assume that the permissive possession of his cotenant continues to be amicable until he is charged with some form of notice that such possession has become hostile. . . . Such evidence must be stronger than that which would be required to establish a title by adverse possession in a stranger. [Citation.]” In short, one tenant in common cannot by mere exclusive possession acquire the title of [the other] cotenant. [Citation.]

¹ The filing of such an amended complaint will “open” the default and give Defendant another opportunity to respond. (*Leo v. Dunlap* (1968) 260 Cal.App.2d 24, 27 [amendment to increase damages sought is substantive]; *Engbretson & Co. v. Harrison* (1981) 125 Cal.App.3d 436, 440 [amendment of substance must be served before default can be entered].) A verified complaint is not required for Plaintiff's other causes of action, which Plaintiff fails to dismiss or address.

(*Weller v. Chavarria* (1965) 233 Cal.App.2d 234, 242–243, italics original, underscoring added.)

Plaintiff fails to provide the required additional evidence to establish a date when her presumed permissive possession became hostile. Plaintiff submits evidence that she requested Defendant's voluntary cooperation to transfer legal ownership of the house to her. (Comp., ¶ 24.) Plaintiff's request for Defendant to relinquish her title is inconsistent with her claim of hostile possession as to Defendant, who is not a stranger. This evidence tends to support a conclusion that Defendant had no notice of Plaintiff's hostile possession when Plaintiff made the request. Even if the Complaint were verified, Plaintiff's evidence would be insufficient to rebut the presumption of Evidence Code section 662, which provides:

The owner of the legal title to property is presumed to be the owner of the full beneficial title. This presumption may be rebutted only by clear and convincing proof.

Also, Plaintiff fails to address the equitable considerations that might arise if the court were to grant Plaintiff's proposed judgment, leaving Defendant liable to the lender or the tax collector. (See, e.g., Plaintiff's decl., ex. B [real property taxes are assessed to Plaintiff and Defendant]).

Hearing Required

Plaintiff acknowledges that in all quiet title actions, the court must hold a hearing in open court and hear the evidence of title presented at the hearing, including such evidence as may be presented by the defaulting defendants, if any choose to appear. (*Bailey v. Citibank* (2021) 66 Cal.App.5th 335, 347 ["in a quiet title action the plaintiff is not entitled to entry of judgment *as a matter of course*, but must affirmatively prove its case in an evidentiary hearing at which the trial court must hear *all* the evidence offered concerning title, *including* evidence that may be presented at the hearing by a defaulting defendant[.]" italics original.)

Conclusion

For these reasons, the court denies Plaintiff's request for entry of judgment quieting title after default without prejudice.

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: KCK **on** 03/24/26 .

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Tentative Ruling

Re: **Michael Schneider v. City of Fresno**
Superior Court Case No. 25CECG04605

Hearing Date: March 26, 2026 (Dept. 502)

Motion: Demurrer by City of Fresno, Fresno Police Department, Officer Polach, and Officer Hudec (City Defendants)

Tentative Ruling:

To sustain the City Defendants' demurrer to plaintiff's complaint with leave to amend. Plaintiff is granted leave of 20 days to file a first amended complaint, which shall run from service by the clerk of the minute order. New language must be set in **boldface** type.

Explanation:

Plaintiff, Michael Schneider (Plaintiff), initiated this action by filing a complaint (Complaint) against codefendants City of Fresno, Fresno Police Department, Officer Polach, and Officer Hudec (City Defendants), and the California Highway Patrol. Plaintiff alleges he "was repeatedly cited, stopped, and surveilled without probable cause. These actions led to significant emotional distress and financial burden." (Comp., ¶ 9.) His \$15,000 motorcycle "was repossessed during this period." (*Id.*, ¶ 10.) Plaintiff sues the City Defendants for civil rights violations, negligence, intentional infliction of emotional distress, and abuse of process and/or malicious prosecution. The City Defendants demur to the Complaint and all four causes of action.

Meet and Confer

The City Defendants' counsel filed and served a declaration stating counsel met and conferred by telephone with Plaintiff, who is self-represented, at least five days before a responsive pleading was due to be filed, but the parties were unable to reach an agreement resolving the matters raised by the demurrer. This satisfies the requirements of Code of Civil Procedure section 430.41 for the demurring party to meet and confer in person, by telephone, or by video conference with the opposing party.

Demurrer

In testing a pleading against a demurrer, the alleged facts are deemed true, "however improbable they may be." (*Del E. Webb Corp. v. Structural Materials Co.* (1981) 123 Cal.App.3d 593, 604.) A demurrer tests only the legal sufficiency of the pleading--not the truth of the plaintiff's allegations or the accuracy of the plaintiff's description of the defendant's conduct. (*Quelimane Co. v. Stewart Title Guaranty Co.* (1998) 19 Cal.4th 26, 47.)

To be "demurrer-proof," a complaint must allege sufficient *ultimate facts* to state a cause of action under a statute or case law. (*People ex rel. Dept. of Transportation v.*

Superior Court (1992) 5 Cal.App.4th 1480, 1484 [adoption of official forms does not relieve plaintiff from alleging essential ultimate facts to state cause of action]; Code Civ. Proc., § 425.10, subd. (a).) Although California courts take a liberal view of inartfully-drawn complaints, “[i]t remains essential...that a complaint set forth the actionable facts relied upon with sufficient precision to inform the defendant of . . . what remedies are being sought.” (*Signal Hill Aviation Co. v. Stroppe* (1979) 96 Cal.App.3d 627, 636.)

Under Government Code section 815, a public entity may be held liable only as provided by statute. The City Defendants demur to all causes of action against them on the ground that Plaintiff fails to plead a statutory duty. The City Defendants cite *Searcy v. Hemet Unified School Dist.* (1986) 177 Cal.App.3d 792, where the appellate court explained the requirements to impose liability on a public entity as follows:

[I]n California all government tort liability is dependent on the existence of an authorizing statute or “enactment” (Gov. Code, § 815, subd. (a), 815.6; [citations]), and to state a cause of action every fact essential to the existence of statutory liability must be pleaded with particularity, including the existence of a statutory duty. [Citation.] Duty cannot be alleged simply by stating “defendant had a duty under the law”; that is a conclusion of law, not an allegation of fact. The facts showing the existence of the claimed duty must be alleged. [Citations.] Since the duty of a governmental agency can only be created by statute or “enactment,” the statute or “enactment” claimed to establish the duty must at the very least be identified.

(*Id.* at p. 802; but see *Gates v. Superior Court* (1995) 32 Cal.App.4th 481, 529 [“in the absence of immunity, public entities and employees may be liable for violations of a plaintiff’s state constitutional right”].) The City Defendants contend “all four cause of action in the Complaint fail to set forth any statutory basis whatsoever.” (Memo., p. 3:21-22.)

First Cause of Action - Civil Rights Violation

For the first cause of action, the City Defendants suggest Plaintiff identified no constitutional or statutory basis for the civil rights violation. But they fail to discuss Plaintiff’s general allegations that the City Defendants deprived him of his rights to privacy, liberty, and due process under the California Constitution, article 1, sections 1 and 7.

Nevertheless, the City Defendants demur to the first cause of action on the additional grounds of immunity and uncertainty. A defendant may demur to a complaint on the ground that it is uncertain, a term that includes pleadings that are “ambiguous and unintelligible.” (Code Civ. Proc., § 430.10; see also Code Civ. Proc., § 425.10, subd. (a)(1) [a complaint must include a “statement of the facts constituting the cause of action, in ordinary and concise language”].) Under the liberal pleading rules, demurrers for uncertainty are generally disfavored (*Chen v. Berenjian* (2019) 33 Cal.App.5th 811, 822), and the court ordinarily will overrule a demurrer for uncertainty or give a plaintiff leave to amend. (*Williams v. Beechnut Nutrition Corp.* (1986) 185 Cal.App.3d 135, 139, fn. 2.) To state a cause of action against a public entity, Plaintiff must allege not only the

statutory or constitutional authority, but also the facts to show the existence of the claimed duty with particularity.

The only "facts" Plaintiff alleges in his self-styled Complaint are stated in paragraphs 9 and 10, which provide in full:

9. Plaintiff was repeatedly cited, stopped, and surveilled without probable cause. These actions led to significant emotion distress and financial burden. [¶] 10. Plaintiff's motorcycle, a heavily modified vehicle valued at approximately \$15,000, was repossessed during this period.

(Comp., ¶¶ 9, 10.) These facts are insufficient to apprise the City Defendants of the facts upon which Plaintiff bases his cause of action for civil rights allegations. Under the requirements of Code of Civil Procedure section 430.10, Plaintiff fails to state a valid cause of action because he fails to the plead "every fact essential to the existence of statutory liability . . . with particularity, including the existence of a statutory duty." (*Searcy v. Hemet Unified School Dist.*, *supra*, 177 Cal.App.3d at p. 802.) Therefore, the court sustains the demurrer to the first cause of action for failure to state a cause of action, in addition to uncertainty, without reaching the claim of immunity at this juncture.

Second Cause of Action – Negligence

The City Defendants correctly contend Plaintiff's second cause of action for common law negligence fails because Plaintiff fails to plead a statutory cause of action against it with specificity. (*Susman v. City of Los Angeles* (1969) 269 Cal.App.2d 803, 808 ["In California all government tort liability is now dependent on statute[.]" citing Gov. Code, § 815.) In most cases, a plaintiff may plead negligence in general terms. But a plaintiff must plead all statutory causes of action with particularity. (*Lopez v. Southern Cal. Rapid Transit Dist.* (1985) 40 Cal.3d 780, 795 ["Ordinarily, negligence may be pleaded in general terms. . . . However, because . . . all governmental tort liability is based on statute, the general rule that statutory causes of action must be pleaded with particularity is applicable"]; *Searcy v. Hemet Unified School Dist.*, *supra*, 177 Cal.App.3d at p. 802 [sustaining school district's demurrer where dangerous property was not owned or controlled by district and district had no mandatory duty].) Therefore, the court sustains the demurrer to the second cause of action because Plaintiff fails to state facts sufficient to constitute a cause of action. (Code Civ. Proc., § 430.10, subd. (e).)

Third Cause of Action – Intentional Infliction of Emotional Distress and Fourth Cause of Action - Abuse of Process and/or Malicious Prosecution

The City Defendants demur to the third cause of action for intentional infliction of emotional distress and the fourth cause of action for abuse of process and/or malicious prosecution on the grounds that Plaintiff again fails to allege a statutory basis for liability and fails to allege the necessary facts to support the causes of action. The court sustains the demurrer third and fourth causes of action for failure to state facts sufficient to constitute a cause of action. (Code Civ. Proc., § 430.10, subd. (e).)

