

**Tentative Rulings for June 11, 2026**  
**Department 503**

**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)**

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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.*

21CECG03258      Wallace v. McCubbin *(MOVED FROM DEPT. 501)*

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

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(Tentative Rulings begin at the next page)

# **Tentative Rulings for Department 503**

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(37)

**Tentative Ruling**

Re: **Chatham v. Shindler**  
Superior Court Case No. 25CECG04903

Hearing Date: June 11, 2026 (Dept. 503)

Motion: Defendants' Demurrer and Motion to Strike

**Tentative Ruling:**

To overrule the demurrer, with defendants granted 10 days' leave to file their answer to the complaint. The time in which the answer can be filed will run from service by the clerk of the minute order.

To deny the motion to strike.

**Explanation:**

Demurrer

On a demurrer, a court's function is limited to testing the legal sufficiency of the complaint. A demurrer is 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 University of California* (2008) 44 Cal.4th 876, 883.) The demurrer does not admit mere contentions, deductions or conclusions of fact or law. (*Blank v. Kirwan* (1985) 39 Cal.3d 311, 318; *Serrano v. Priest* (1971) 5 Cal.3d 584, 591.) Leave to amend should be granted if there is a reasonable possibility that plaintiff could state a cause of action. (*Blank v. Kirwan*, *supra*, 39 Cal.3d at 318.)

Defendants demur to the eighth cause of action for defamation. In order to plead defamation, a plaintiff must allege (1) a publication of a statement, (2) falsity of the statement, (3) the statement is defamatory in nature, (4) the statement is unprivileged, and (5) that the statement has a tendency to injure the person about whom the statement is made. (*Taus v. Loftus* (2007) 40 Cal.4th 683, 720, overruled on another point as stated in *Blue v. Office of Inspector General* (2018) 23 Cal.App.5th 138, 150.) Defamatory statements are those which "expose the defamed person to hatred, contempt, ridicule or obloquy or cause the person to be shunned or avoided or injured in his or her occupation..." (*Rothman v. Jackson* (1996) 49 Cal.App.4th 1134, 1140.)

Here, defendants assert that the statement at issue was subject to the common interest privilege. A communication made "without malice, to a person interested therein, (1) by one who is also interested, or (2) by one who stands in such a relation to the person interested as to afford a reasonable ground for supposing the motive for the communication to be innocent, or (3) who is requested by the person interested to give

information" is subject to the common interest privilege. (Civ. Code, § 47, subd. (c).) The common interest privilege applies where statements are made "concerning the job performance or qualifications of an applicant for employment, based upon credible evidence, made without malice, by a current or former employer of the applicant to, and upon request of, one whom the employer reasonably believes is a prospective employer of the applicant." (*Ibid.*) It also extends to communications between management and coworkers regarding disciplining an employee. (*McGrory v. Applied Signal Technology, Inc.* (2013) 212 Cal.App.4th 1510, 1538.)

Generally, a privilege would be asserted in the answer as an affirmative defense. (*Tschirky v. Superior Court* (1981) 124 Cal.App.3d 534, 538.) However, where the privilege is apparent on the face of the complaint, it is appropriately the subject of a demurrer. (*Ibid.*) Here, the common interest privilege is apparent on the face of the complaint as plaintiff alleges statements regarding job performance made by Shindler to defendant corporation and by defendant corporation to prospective employers. (Complaint, ¶¶ 70-71.)

A plaintiff can overcome the privilege by alleging actual malice. (*McGrory v. Applied Signal Technology, Inc.*, *supra*, 212 Cal.App.4th at p. 1538.) This requires pleading the statement was "motivated by hatred or ill will towards the plaintiff or ... that the defendant lacked reasonable ground for belief in the truth of the publication and thereafter acted in reckless disregard of the plaintiff's rights." (*Ibid.*) "Mere allegations of malice are not sufficient." (*Tschirky v. Superior Court*, *supra*, 124 Cal.App.3d at p. 538.) Facts must be alleged. (*Id.* at p. 539.)

Plaintiff argues that she has sufficiently alleged actual malice. Here, plaintiff has alleged that defendant Shindler made statements that plaintiff had violated policy, was unreliable, and deserved to be terminated. (Complaint, ¶ 70.) She also alleges that prior to this, plaintiff had suffered a seizure while at work on July 5, 2025, requested time off as an accommodation on July 14, 2025, on August 5, 2025 she made a disability discrimination complaint, was held after her shift had ended in order to be scolded about making the complaint the same day, and then counseled for working overtime on August 8, 2025, culminating in her termination on August 9, 2025. (*Id.* at ¶¶ 13-19.) She also alleges the statements were made because of a "grudge, former dispute, previous quarrel, rivalry, or out of anger and hostility, or hatred, or ill will or ill feelings". (*Id.* at ¶ 78.) Plaintiff has sufficiently alleged facts supporting a claim of ill will as to defendant Shindler. As such, she has sufficiently alleged actual malice as to defendant Shindler.

Plaintiff has alleged that defendant corporation published statements that she had violated policy, was unreliable, and deserved to be terminated. (Complaint, ¶ 71.) She alleges that defendants lacked reasonable grounds for belief in the truth of these statements, failed to investigate them, and knew they were false. (*Id.* at ¶¶ 78-79.) Plaintiff has sufficiently alleged facts against defendant corporation consistent with actual malice. The court overrules the demurrer to the eighth cause of action for defamation.

### Strike

A motion to strike may be used to address defects in pleadings otherwise not challengeable by a demurrer. (See Code Civ. Proc., § 435.) Code of Civil Procedure

