

Tentative Rulings for October 7, 2025
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.

22CECG00117	<i>DTL Transport, Inc v Jasdeep Sidhu</i> is continued to Thursday, October 23, 2025 at 3:30 p.m. in Department 502
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Tentative Ruling

Re: ***Evangelina Martinez v. California Heart Medical Associates, Inc., a California Corporation***
Superior Court Case No. 23CECG02935

Hearing Date: October 7, 2025 (Dept. 502)

Motion: By Defendant to Strike Portions of Plaintiff's First Amended Complaint

Tentative Ruling:

To continue this motion to Wednesday, November 19, 2025, at 3:30 p.m. in Department 502. The parties are ordered to conduct a meet and confer session, in person or by telephone, at least 20 days prior to the hearing, since defendant has presented a declaration reflecting insufficient efforts to meet and confer. If the meet and confer resolves the issues, defendant shall call the calendar clerk to take the motion off calendar. If it does not resolve the issues, defendant shall file a supplemental declaration, on or before Friday, November 7, 2025 at 5:00 p.m. stating the efforts made.

Explanation:

Insufficient Meet and Confer Efforts

Before filing a motion to strike, moving party's counsel must meet and confer, in person, by video conference, or by telephone with counsel for the party who filed the pleading in an attempt to reach an agreement that would resolve the objections to the pleading and obviate the need for filing a motion to strike. (Code Civ. Proc., § 435.5 subd. (a).) The moving party must file and serve a declaration stating whether the parties met and conferred without reaching an agreement, or whether the responding party failed to respond or meet and confer in good faith. (*Id.*, subd. (a)(3).)

Here, defendant California Heart Medical Associates, Inc. ("defendant") filed a declaration regarding meet and confer, indicating that plaintiff Evangelina Martinez ("plaintiff") failed to respond or otherwise meet and confer in good faith. Defendant further explained that an e-mail was sent to plaintiff's counsel inviting them to schedule a time for a telephonic meet and confer. Plaintiff's counsel then failed to respond to the e-mail.

A single e-mail attempt at a telephonic meet and confer is insufficient to satisfy the requirement of the moving party to meet and confer prior to filing this motion to strike. Counsel does not indicate that any phone calls were made by him to plaintiff's counsel, nor any follow up to the initial e-mail or any other good faith attempts on the part of defendant at actually reaching plaintiff for a meet and confer. It is not a plaintiff's burden to meet and confer with a defendant prior to this motion, and the burden cannot be shifted to them if defendant's efforts are insufficient. It does not appear that defendant here exerted sufficient efforts to meet and confer in person or by telephone with plaintiff.

The court's normal practice in such instances is to take the motion off calendar, subject to being re-calendared once the parties have met and conferred. However, given the current congestion in the court's calendar, the court will instead continue the hearing to allow the parties to meet and confer, and only if efforts are truly unsuccessful will it rule on the merits. After such good faith attempts, defendant shall file a declaration specifically detailing the efforts made.

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Tentative Ruling

Re: ***Maciel v. City of Clovis et al.***
Superior Court Case No. 25CECG02450

Hearing Date: October 7, 2025 (Dept. 502)

Motion: By Defendants City of Clovis, Jorge Gomez, and Jared Binford
on Special Motion to Strike

Tentative Ruling:

To grant as to the eleventh, twelfth and thirteenth causes of action for intentional misrepresentation, defamation, and false light.

Explanation:

Plaintiff Matthew Maciel ("Plaintiff") filed the instant action regarding, among other things, acts of intentional false statements by defendants Jorge Gomez, Jared Binford and the City of Clovis (together "Defendants") constituting intentional misrepresentation, defamation, and false light. These claims represent the eleventh, twelfth, and thirteenth causes of action of Plaintiff's Complaint. Defendants bring the present special motion to strike ("anti-SLAPP") against the eleventh, twelfth, and thirteenth causes of action of the Complaint pursuant to Code of Civil Procedure section 425.16.

A SLAPP suit (Strategic Litigation Against Public Participation) is a suit brought "primarily to chill the valid exercise of constitutional rights of freedom of speech and petition for redress of grievances." (Code Civ. Proc., § 425.16, subd. (a).) The provisions of the anti-SLAPP statute are to be construed broadly in order to safeguard the constitutional right of free speech. (*Ibid.*) However, the anti-SLAPP statute does not insulate defendants from any liability for claims arising from the protected rights of petition or speech. (*Baral v. Schnitt* (2016) 1 Cal.5th 376, 384.) It only provides a procedure for weeding out, at an early stage, meritless claims arising from protected activity. (*Ibid.*)

An anti-SLAPP motion is analyzed in two stages, or prongs. First, the moving party must make a threshold showing that the challenged cause of action arises from an act in furtherance of the right of petition or free speech in connection with a public issue. (*Varian Medical Systems, Inc. v. Delfino* (2005) 35 Cal.4th 180, 192.) Where the moving party meets this burden, the analysis proceeds to the second prong: the burden shifts to the plaintiff who must demonstrate a probability of prevailing on the claim. If the plaintiff fails to meet this burden, "the court must strike the cause of action." (*Ibid.*) In determining whether each party has met its burden, the court considers the pleadings, and the supporting and opposing affidavits stating the facts upon which the liability or defense is based. (Code Civ. Proc. §425.16, subd. (b)(2); *Jay v. Mahaffey* (2013) 218 Cal.App.4th 1522, 1536.)

Defendants submit that the alleged acts by Defendants were made in connection with an official proceeding. Code of Civil Procedure section 425.16 provides, in pertinent part:

A cause of action against a person arising from any act in furtherance of a person's right to 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. (Code Civ. Proc. § 425.16, subd. (b)(1).)

The statute continues:

An act in furtherance of the right of free speech includes any written or statement 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. (*Id.*, § 425.16, subd. (e)(2).)

Thus, the inquiries at present are (1) whether the causes of action arise from the acts in furtherance; and (2) whether the act in furtherance was a written statement made in connection with an issue under consideration or review by a judicial body. (*Id.*, § 425.16, subd. (b)(1), (e)(2); *Park v. Bd. of Trustees of Cal. State University* (2017) 2 Cal.5th 1057, 1062-1063.) Defendants bear the burden on this issue. (*Flatley v. Mauro* (2006) 39 Cal.4th 299, 314.)

Defendants submit that each act alleged in the Complaint were related to an internal investigation proceeding constituting an official proceeding. (Complaint, ¶¶ 326, 327, 334, 343; see *Hansen v. Cal. Dept. of Corrections and Rehabilitation* (2008) 171 Cal.App.4th 1537, 1544 citing *Briggs v. Eden Council for Hope & Opportunity* (1999) 19 Cal.4th 1106, 1115 [finding that the constitutional right to petition includes the basic act of seeking administrative action, and that communications preparatory to or in anticipation of bringing an official proceeding are entitled to the benefits of Code of Civil Procedure section 425.16].)

Plaintiff opposes, to which Defendants object due to the opposition being oversized. The court exercises discretion to consider the oversized brief. (Cal. Rules of Ct., rule 3.1113(f), 3.1300(d).) Plaintiff submits that a cause of action is subject to anti-SLAPP only where the protected speech is the wrong complained of, and not merely evidence of unlawful conduct. (*Park v. Bd. of Trustees of Cal. State University, supra*, 2 Cal.5th at p. 1063.) While this is an accurate statement, at issue are claims of misrepresentation, defamation, and false light. Even though the statements may, as Plaintiff suggests, arise out of other alleged claims, Plaintiff also states claims on the statements themselves. (*Compare City of Cotati v. Cashman* (2002) 29 Cal.4th 69, 76-78.)

Plaintiff next argues that knowingly false accusations made as part of an internal investigation are not subject to anti-SLAPP protections because they serve as pretext for unlawful employment action. Plaintiff cites to *Grewal v. Jammu*. Defendants submit on reply that the case does not stand for this proposition, which the court agrees. At issue in *Grewal v. Jammu* were publications by way of articles or advertisements. (*Grewal v.*

Jammu (2011) 191 Cal.App.4th 977, 982.) Nothing about this case's facts suggest that an internal investigation related to unlawful employment action was at issue. Neither is Plaintiff's reliance on *Wilson v. Cable News Network, Inc.* relevant for the argued premise that the anti-SLAPP statute does not apply where the conduct complained of is itself illegal. The case is distinguishable. There, the claims were for acts constituting discrimination and retaliation, not defamation and misrepresentation claims. (*Wilson v. Cable News Network, Inc.* (2019) 7 Cal.5th 871, 885.) Moreover, the *Wilson* case expressly held that the complaint's allegations are not to be given conclusive deference as to the first prong of an anti-SLAPP analysis. (*Id.* at p. 887.)

Based on the above, the court finds that Defendants sufficiently demonstrate that the acts alleged in support of the eleventh, twelfth, and thirteenth causes of action fall under the protection afforded by Code of Civil Procedure section 425.16. The burden shifts to Plaintiff to demonstrate a probability of prevailing.

Plaintiff submits that he has a probability of prevailing on the eleventh cause of action for intentional misrepresentation. Plaintiff submits several exhibits by and through a declaration by counsel of record. (See generally Beard Decl.) Defendants object, primarily on the grounds of foundation and authentication. The objections are sustained as to foundation, except as to Exhibit F, which appears to be the same report relied upon by Defendants in their moving papers. (Compare Driskill Decl., Ex. B.) On balance, the internal affairs report by itself does not demonstrate a probability of prevailing. The report by itself only shows that these statements in question were made, not that any of the statements were false, and/or maliciously made. Accordingly, Plaintiff fails his burden to demonstrate a probability of prevailing, not just as to the eleventh cause of action for intentional misrepresentation, but the twelfth cause of action for defamation, and the thirteenth cause of action for false light.

Moreover, as Defendants suggest, Plaintiff also fails to overcome the issue of immunity for the same reasons. Plaintiff concedes as to the eleventh cause of action that the City of Clovis is immune. Plaintiff acknowledges that the employees are also immune absent a showing of fraud, corruption or malice. (Gov. Code, § 822.2.) As the only evidence submitted by Plaintiff is the internal affairs report, Plaintiff additionally fails to overcome the claim of immunity to show a reasonable probability of prevailing.

Plaintiff seeks in the alternative an order allowing discovery. However, Code of civil Procedure section 425.16, subdivision (g) is express on this matter. Any such relief must be sought by a noticed motion and for good cause. Neither would a request ex parte suffice in light of the express language of the statute. (*Contemporary Services Corp. v. Staff Pro Inc.* (2007) 152 Cal.App.4th 1043, 1061.)

For the above reasons, the motion is granted as to the eleventh cause of action against Defendants for intentional misrepresentation; the twelfth cause of action for defamation; and the thirteenth cause of action for false light.

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

Issued By: KCK on 10/06/25
(Judge's initials) (Date)