TENTATIVE RULINGS
LAW & MOTION CALENDAR
Wednesday, December 17, 2025, 3:00 p.m.
Courtroom 16 – Hon. Rene A. Chouteau for Hon. Patrick M. Broderick
3035 Cleveland Avenue, Suite 200, Santa Rosa

TO JOIN "ZOOM" ONLINE,
Courtroom 16
Meeting ID: 161-460-6380
Passcode: 840359
https://sonomacourt-org.zoomgov.com/j/1614606380?pwd=NUdpOEZ0RGxnVjBzNnN6dHZ6c0ZQZz09

TO JOIN "ZOOM" BY PHONE,
By Phone (same meeting ID and password as listed above):
(669) 254-5252 US (San Jose)

The following tentative rulings will become the ruling of the Court unless a party desires to be heard. If you desire to appear and present oral argument as to any motion, YOU MUST notify the Court by telephone at **(707) 521-6725**, and all other opposing parties of your intent to appear by 4:00 p.m. the court day immediately before the day of the hearing.
Parties in motions for claims of exemption are exempt from this requirement.

PLEASE NOTE: The Court WILL NOT provide a court reporter for this calendar. If there are any concerns, please contact the Court at the number provided above.

1. 24CV01984, 458 Seb Ave LLC. v. Anderson

The motion of G. Scott Emblidge, Gianna Geil, and Moscone Emblidge & Rubens, LLP, ("Counsel") to be relieved as counsel for Defendant Eric Gustav Anderson ("Defendant") came on calendar on October 29, 2025. Counsel did not file proof of service showing service on the Defendant. Therefore, the motion was continued to this calendar. In re-reviewing the motion, it remains inadequate. **The motion is DENIED without prejudice. No further continuance will be allowed on this motion, but Counsel may file a second motion to be relieved as counsel which contains all required information.**

The initial motion was filed on August 11, 2025. Notice of the Motion states it is supported by the declaration of Gianna Geil. In her declaration, Ms. Geil states the reason for the motion is: "Our firm has advised the Client to obtain other counsel. Withdrawal is permissive under Rule of Professional Conduct 1.16(b)(4) and (5)."

The declaration is dated August 4, 2025. It states that the motion was served by mail and by electronic service on the client's current email address. Notably, this declaration was made prior to the filing of the motion.

While the Notice of Motion does not state that it is supported by the declaration of G. Scott Emblidge, Mr. Emblidge also filed a declaration. However, his declaration only states that Plaintiff's counsel was e-served and that Counsel's office has not, as of the date of the declaration, October 21, 2025, received any opposition.

As noted above, proof of service filed along with the initial motion showed that the Notice of Motion, one unspecified declaration, and the proposed order was served on Plaintiff's counsel on

August 6, 2025—prior to the filing of the motion. No amended Notice of Motion was filed thereafter with the date of the hearing.

Despite this, on October 24, 2025, Plaintiff's counsel Kim Descamps filed a declaration requesting she be provided with Defendant's contact information if the motion is granted. Ms. Descamps indicates in her declaration that Defendant has attempted to avoid service and that she does not have his current contact information.

Subsequent to the continuance of this motion, Counsel filed a Notice of the Continued Hearing, the Declaration of Anna Hill, and Proof of Service. Proof of Service states that the Notice of Continued Hearing Date was served on Defendant at eanderson@urbangreenbuilders.com on October 29, 2025.

The Hill declaration states that on August 14, 2025, Ms. Hill "notified and served" Defendant with file-stamped copies of the Motion to be Relieved as Counsel, Geil declaration, and proposed order. (Hill decl., ¶3.) However, the declaration does not comply with all the requirements of CCP section 1013b. Nor does it show that Defendant's email address was confirmed as "current" as defined by Cal. Rule of Court, Rule 3.1362(d)(2).

In addition to the issue of service, Counsel's reason for the withdrawal is lacking. As noted above, Counsel only states that withdrawal is permissive under Rule of Professional Conduct 1.16(b)(4) and (5). These rules provide that a lawyer may withdraw from representing a client if: "(4) the client by other conduct renders it unreasonably difficult for the lawyer to carry out the representation effectively; (5) the client breaches a material term of an agreement with, or obligation, to the lawyer relating to the representation, and the lawyer has given the client a reasonable warning after the breach that the lawyer will withdraw unless the client fulfills the agreement or performs the obligation."

Merely listing the above rules does not discharge Counsel's duty to state why a motion under Code of Civil Procedure section 284(2) is brought instead of filing a consent under Code of Civil Procedure section 284(1). (See Cal. Rules of Court, Rule 3.1362(c).)

For the reasons stated above, the motion is DENIED without prejudice.

2. 24CV02519, Bohanan v. City of Santa Rosa

Defendant City of Santa Rosa's ("the City") motion for a protective order for Mr. Nick Vinh's deposition is **GRANTED** for good cause shown. The City's request for sanctions is **DENIED** for failure to comply with C.C.P. section 2023.010. Plaintiff's request for sanctions is **DENIED**.

Procedural History

This action arises out of Plaintiff Lucas Bohanan's ("Plaintiff") employment with Defendant as a firefighter and paramedic and Defendant's alleged employment discrimination and retaliation after Plaintiff suffered a workplace injury. (See Second Amended Complaint, filed November 7, 2025.) On June 11, 2025, Plaintiff's counsel, Mr. Paul Pfeilschiefter, noticed the deposition of the City's witness, Mr. Nick Vinh, for a deposition occurring July 3, 2025. (Cleary Decl., ¶ 2) The first day of Mr. Vinh's deposition occurred on July 3, 2025. (Cleary Decl., ¶ 3.) The second day of Mr. Vinh's deposition occurred on August 7, 2025, which ended with Mr. Vinh needing to abruptly leave due to Plaintiff's counsel's conduct. (Cleary Decl., ¶ 5.) The Parties met and conferred via email on August 7, 2025, but did not come to a resolution. (Cleary Decl., ¶ 8, Exhibit D.) On August 25, 2025, Plaintiff served a fifth amended notice of Mr. Vinh's deposition for September 5,

2025. (Pfeilschiefter Decl., ¶ 7.) On August 26, 2025, the City filed the instant motion for a protective order for Mr. Vinh's deposition.

Governing Law

Protective Orders for Depositions

The Discovery Act gives courts the power to enter protective orders to protect a party from unwarranted annoyance, embarrassment, or oppression, or undue burden and expense. (C.C.P. §§ 2016.010 et seq., 2030.090.) C.C.P. section 2025.420(a) provides that before, after, or during a deposition, a party, deponent, or other affected natural person or organization may move for a protective order, and that the motion shall be accompanied by a protective order. C.C.P. section 2025.420(b) provides that the Court, "for good cause shown, may make any order that justice requires to protect any party, deponent, or other natural person or organization from unwarranted annoyance, embarrassment, or oppression, or undue burden and expense."

Sanctions

"The court shall impose a monetary sanction under Chapter 7 (commencing with Section 2023.010) against any party, person, or attorney who unsuccessfully makes or opposes a motion for a protective order, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust." (C.C.P. § 2025.420(h).) Requests for costs must be both reasonable and actual. (See *Kwan Software Engineering, Inc. v. Hennings* (2020) 58 Cal.App.5th 57, 74.)

Analysis

Protective Order

The City's counsel states that at the start of the deposition on July 3, 2025, she informed Mr. Pfeilschiefter that Mr. Vinh is sensitive to yelling or aggressive behavior and asked counsel to not engage in such behavior. Mr. Vinh wears a smart watch to monitor his heart rate because he has high blood pressure. (Vinh Decl., ¶ 3.) He is sensitive to loud, aggressive behavior and experiences acceleration of heart rate, nausea, loss of concentration, and feelings of overwhelm when he experiences such behavior. (Vinh Decl., ¶ 2.) The City maintains that Mr. Pfeilschiefter was asked several times to lower his voice during the two days of deposition, which caused Mr. Pfeilschiefter to become frustrated and argumentative. Mr. Pfeilschiefter had an outburst on the second day of the deposition, which is what led the City to file the instant motion for a protective order. The City requests for the Court to appoint a discovery referee to be present at Mr. Vinh's deposition, to have the deposition proceed remotely, and requests monetary sanctions for costs to bring this motion as well as pay for the discovery referee.

In opposition, Plaintiff argues that Defendant's motion for sanctions was improperly noticed because it did not contain a hearing date and was delayed by 19 days, only being brought after Plaintiff served a fifth amended notice for Mr. Vinh's deposition. Plaintiff further maintains that the City fails to show good cause as Plaintiff has previously offered accommodations sought in the City's motion (including a remote deposition and have another attorney take Mr. Vinh's deposition) which have been previously denied by the City. Plaintiff further argues that Defendant's failure to

attend Mr. Vinh's deposition set for September 5, 2025, warrants sanctions against the City as it did not object to the notice of deposition.

In its Reply, the City stated that it shows good cause for the protective order and that Plaintiff mischaracterizes the Parties' meet and confer efforts. The City contends that even if the moving papers did not have a hearing date, Plaintiff must show prejudice, which he fails to do. The City argues that it did not receive a copy of the file-stamped version of the motion from the Court but served the Court's Notice of Informal Conference and Sanctions on Plaintiff on October 1, 2025, which contained the hearing date. (Cleary Reply Decl., ¶ 5.) Lastly, the City maintains that Plaintiff's counsel must file a motion to compel and seek sanctions pursuant to a properly noticed motion.

Along with the moving papers, the Court has reviewed the deposition transcripts and the video of Mr. Vinh's deposition. The Court notes that Mr. Pfeilschiefter's declaration in support of his opposition was rejected by the Court but it was refiled on December 10, 2025. While the declaration is therefore untimely, the Court shall consider Mr. Pfeilschiefter's declaration in its discretion in the interest of disposing of cases on their merits. However, Mr. Pfeilschiefter's declaration references nine exhibits (one of which was lodged with the Court), but there are no other exhibits attached to the declaration.

The Civil Discovery Act of 1986's central precept is that civil discovery should be essentially self-executing. (*Clement v. Alegre* (2009) 177 Cal.App.4th 1277, 1281.) Counsel has failed to uphold this principle necessitating Court intervention. While City's counsel's interruptions asking for Mr. Pfeilschiefter to lower his voice, when it does not appear to have been at an excessive volume, may have been numerous, it is no excuse for Mr. Pfeilschiefter's unprofessional outburst as exemplified in the deposition transcripts and video. Such conduct is unbecoming to the profession and will not be tolerated under any circumstance. Mr. Vinh's testimony is necessary for the case and taking his deposition should not create an environment for him to feel uncomfortable or have a medical emergency given his condition.

While the City did not properly notice its motion by failing to provide an amended notice of motion with the hearing date once set by the Court, Plaintiff's counsel fails to show any prejudice, especially since Plaintiff timely opposed the motion. Furthermore, the City filing the instant protective order two and a half weeks after the last deposition was held does not evidence delay. Given Plaintiff's counsel's conduct in the deposition and Mr. Vinh's medical condition, the Court finds good cause to issue a protective order for Mr. Vinh's deposition. The deposition shall be held remotely. The Court also finds that it is in the best interest of the Parties to have another attorney from Mr. Pfeilschiefter's firm conduct the remaining days of Mr. Vinh's testimony. Thus, the Court does not find a need to appoint a discovery referee for Mr. Vinh's deposition.

Sanctions

Pursuant to C.C.P. section 2025.420(h), the City is entitled to sanctions against Plaintiff/Plaintiff's counsel. The City requests sanctions in the amount of $9,250 in attorney's fees associated with the preparation of this motion. However, C.C.P. section 2023.010 requires that a request for sanctions to be accompanied by a declaration setting forth facts supporting the amount of any monetary sanction sought. Ms. Cleary's declaration does not state any facts justifying $9,250 in attorney's fees, such as how many hours were spent in preparing the motion and her hourly rate or justification for such rate based on her experience. Therefore, the imposition of sanctions is deficient because it fails to provide facts supporting $9,250 in attorney's fees for a protective order. Additionally, Plaintiff requests sanctions against the City for failure to attend Mr. Vinh's September 5, 2025, deposition in the amount of $6,500. While Plaintiff is correct, that C.C.P. section 2025.420

does not contain an automatic stay provision for depositions like section 2025.410 does, section 2025.420 only imposes monetary sanctions against any party, person or attorney, who unsuccessfully makes or opposes a motion for a protective order. Therefore, the Court shall not award sanctions to Plaintiff under section 2025.420 as the City's motion was successful. If Plaintiff seeks sanctions against the City for failure to attend or object to Mr. Vinh's September 5, 2025, deposition, such relief is only proper under C.C.P. section 2025.450, which requires a successful motion to compel the deponent's attendance and testimony. As Plaintiff did not file such motion, the Court will not issue sanctions as requested. Nonetheless, the Court finds that the City acted with substantial justification in not attending the September 5, 2025, deposition as it filed a protective order the day after it was noticed of the deposition and before the deposition was set to occur. Lastly, Plaintiff's request for $6,500 in sanctions is not supported with facts as required by C.C.P. section 2023.010.

Conclusion

The City's motion for a protective order for Mr. Nick Vinh's deposition is **GRANTED** for good cause shown. The deposition shall occur remotely and another attorney from Mr. Pfeilschiefter's firm shall conduct the remaining day(s) of Mr. Vinh's testimony.

The City's request for sanctions is **DENIED** for failure to comply with C.C.P. section 2023.010. Plaintiff's request for sanctions is **DENIED**.

The City shall submit a written order on its motion to the Court consistent with this tentative ruling and in compliance with Rule of Court 3.1312(a) and (b). Additionally, the City shall lodge a revised proposed protective order conforming to this tentative ruling.

3. 24CV06819, Delguidice v. FCA US LLC

Plaintiff Peter Delguidice ("Plaintiff") moves for an order to strike Defendant's meritless objections and compel further responses to Plaintiff's Form Interrogatories (Set One) Nos. 1.1, 2.5, 2.8, 4.1, 4.2, 12.1, 15.1, 17.1, and 50.1-50.6; Plaintiff's Special Interrogatories (Set One) Nos. 1-3, 5, 7-9, 10, 12, 14-25; and Plaintiff's Requests for Production of Documents (Set One) Nos. 1-72.

On December 5, 2025, the parties filed a stipulation and proposed order to continue these motions for 30 days. The law and motion calendar is booked through late March. Accordingly, **Plaintiff's motions are continued to March 25, 2026, at 3:00 p.m., in Department 16. If counsel resolve this dispute, they are directed to inform this court so that the motions can be dropped.**

4. 25CV01922, Zhao v. Bobadilla

Defendant Eduardo Cesar Bobadilla ("Defendant") moves for an order setting aside the default entered in this matter. Defendant's motion is made on the grounds that Defendant was not properly served and thus did not have notice of this action in time to defend against it.

Defendant's motion attaches two proof of service documents. Each only shows that Plaintiff's counsel was served with Defendant's answer. Proof of service of the motion and supporting documents has not been filed. Accordingly, **this motion is CONTINUED to March 18, 2026, at 3:00 p.m., in Department 16, to allow Defendant to file proof of service of the motion on Plaintiff's counsel.**

5. 25CV03393, Doe v. County of Sonoma

I. Demurrer

Defendant County of Sonoma ("County") demurs to the complaint filed by Plaintiff Jane Doe ("Plaintiff") on the grounds that it is uncertain and unintelligible, and to the first cause of action for negligence and second cause of action for breach of mandatory duties for failure to state facts sufficient to constitute a cause of action, on the grounds that it is barred by discretionary immunity, for failure to allege an action under Government Code section 815.6, and/or for uncertainty. **The County's general and special demurrers are OVERRULED.**

1. Complaint

Plaintiff's complaint alleges that the County was responsible for her as a ward of the Juvenile Court and was responsible for selecting, supervising, placing, and protecting Plaintiff during her time at the Valley of the Moon Children's Home, in foster care, and in group homes. Plaintiff alleges she was the victim of unlawful, felonious, physical/sexual abuse, neglect and other misconduct while a minor child and dependent of the juvenile dependency court and while in the care, custody, and control of the County from about 2005 to about 2009. Plaintiff alleges causes of action for negligence and breach of mandatory duties.

2. Uncertain and Unintelligible

The County first argues that the complaint is impermissibly vague and ambiguous and is wholly devoid of any substantive factual allegations supporting the County's liability. A demurrer for uncertainty will be sustained only where the complaint is so unintelligible that defendant cannot reasonably respond—i.e., defendant cannot reasonably determine what issues must be admitted or denied, or what counts or claims are directed against defendant. (*Khoury v. Maly's of Calif., Inc*. (1993) 14 Cal. App. 4th 612, 616.) Here, the complaint is not so unintelligible that the County has no idea what Plaintiff is alleging.

3. Second Cause of Action for Breach of Mandatory Duties

In California all government tort liability is dependent on the existence of an authorizing statute. (*Searcy v. Hemet Unified School Dist.* (1986) 177 Cal.App.3d 792, 802.) 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. (*Ibid*.) 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. (*Ibid*.)

But only ultimate facts need be alleged: "To survive a demurrer, the complaint need only allege facts sufficient to state a cause of action; each evidentiary fact that might eventually form part of the plaintiff's proof need not be alleged." (*C.A. v. William S. Hart Union High School Dist.* (2012) 53 Cal. 4th 861, 872.) The complaint must also be "liberally construed, with a view to substantial justice between the parties." (Code Civ. Proc., § 452.) In addition, the court must "draw[] inferences favorable to the plaintiff, not the defendant." (*Perez v. Golden Empire Transit Dist.* (2012) 209 Cal.App.4th 1228, 1238.)

None of the cases discussed by the County announced any similar pleading requirements for litigants seeking to impose negligence liability on a public entity based on the special relationship doctrine, as Plaintiff does in this case. Therefore, the cases are distinguishable.

This cause of action identifies the Child Abuse and Neglect Reporting Act (CANRA). Plaintiff alleges that pursuant to this Act, the County was required to make initial reports or follow up reports within 36 hours of receiving said reports of abuse and/or neglect and to accept reports of suspected child abuse and/or neglect of Plaintiff and to maintain a record of all reports received.

The County is alleged to have violated these duties causing Plaintiff damage. As the complaint alleges that the County and its agents/employees were responsible for supervision of Plaintiff, this is sufficient to allege that the agent/employee was acting within the scope of his or her employment with the County. The general demurrer to this cause of action is OVERRULED.

4. First Cause of Action for Negligence

In determining whether a complaint states a cause of action, the allegations must be liberally construed in favor of the pleader, the complaint must be read as a whole, not word by word, and each part given the meaning it derives from its context. (*Rosenfeld, Meyer & Susman v. Cohen* (1983) 146 Cal.App.3d 200, 222.)

The complaint alleges that Plaintiff "was in a special relationship with [the County]," which required the County (and its agents/employees) "to use the highest duty of care to protect Plaintiff and to keep her safe." (Complaint, ¶¶ 5, 12.) In reading the complaint as a whole, Plaintiff's cause of action for negligence must upon the statutory duties alleged in the second cause of action. Moreover, the actual placement of the child in a foster home, as opposed to investigating reports of abuse, and the administration of her care therein do not rise to the level of policy decisions protectible by the statutory immunity. (*Elton v. County of Orange* (1970) 3 Cal.App.3d 1053, 1058; see also *G. v. Orange County Soc. Servs. Agency* (2025) 198 Cal.App.5th 465; *Donald S. v. County of San Diego* (1993) 16 Cal.App.4th 887, 893-95.) The complaint is broad enough to encompass the County negligently performed an investigation.

In addition, a general demurrer only lies where the complaint clearly discloses some defense or bar to recovery. (*Casterson v. Superior Court* (2002) 101 Cal.App.4th 177, 183.)

The general demurrer to this cause of action is OVERRULED.

5. Type of Injury/Imposition of Mandatory Duty

The County argues that the cited statutes do not impose any mandatory duties upon the County and thus cannot form the basis of a Gov. Code Section 815.6 cause of action, and that Plaintiff fails to identify the type of injury the alleged mandatory enactments were intended to prevent and that Plaintiff suffered those injuries. This court disagrees.

Gov. Code section 815.6 provides: "Where a public entity is under a mandatory duty imposed by an enactment that is designed to protect against the risk of a particular kind of injury, the public entity is liable for an injury of that kind proximately caused by its failure to discharge the duty unless the public entity establishes that it exercised reasonable diligence to discharge the duty."

The intent and purpose of CANRA is to protect children from abuse. In any investigation of suspected child abuse, all persons participating in the investigation of the case shall consider the needs of the child victim and shall do whatever is necessary to prevent psychological harm to the child victim. (*Jacqueline T. v. Alameda County Child Protective Services* (2007) 155 Cal.App.4th 456, 470.)

Plaintiff alleges the County she suffered "physical/sexual abuse, neglect and other misconduct," which is the type of injury that the Child Abuse and Neglect Reporting Act was intended to protect against.

Jacqueline T. v. Alameda County Child Protective Services (2007) 155 Cal.App.4th 456, 470 is distinguishable. In that case, the County and its employees were alleged receivers of three reports of alleged child abuse from third parties rather than the reporters themselves. Therefore, they could not have breached a mandatory duty to report pursuant to CANRA. Here, Plaintiff is alleged to have been in the County's and its employees' care, meaning the County employees were mandated reporters and failed to report Plaintiff's abuse.

While the County argues that some of the cited code sections are only definitions, any valid cause of action overcomes a demurrer. (*Quelimane Co., Inc. v. Stewart Title Guaranty Co.* (1998) 19 Cal. 4th 26, 38-39.) Demurrers based upon technicalities; i.e., though the facts are not clearly

stated; or are intermingled with irrelevant matters; or the plaintiff has demanded relief to which he is not entitled does not require that the demurrer be sustained. (*Gressley v. Williams* (1961) 193 Cal. App. 2d 636, 639.)

6. Immunity

The County argues that discretionary immunity under Government Code section 820.2 bars Plaintiff's negligence claim. The cases cited involve discretionary acts. Here, Plaintiff has cited CANRA, which mandates reporting, and alleges she was in the care and custody of the County and its agents or employees. Plaintiff has not alleged that the County's negligence is based upon placing her in a particular foster home, custodian, or home. Nor does she allege that the County merely failed to investigate.

7. Conclusion and Order

The County's general and special demurrers are OVERRULED.

Plaintiff's counsel is directed to submit a written order to the court consistent with this ruling and in compliance with Cal. Rules of Court, Rule 3.1312.

II. Motion to Strike

Defendant County of Sonoma moves to strike portions of the complaint filed by Plaintiff Jane Doe. Specifically, the County seeks to strike the following portions of the complaint:

1. Paragraph 16, on page 4, line 12: "(including, but not limited to, the following);
2. Paragraph 16(a) in its entirety, on page 4, lines 13-14: "Penal Code Section 1164 (et seq.), also known as CANRA (Child Abuse and Neglect Reporting Act), generally;
3. Paragraph 16(b) in its entirety, on page 4, lines 15-18: "Penal Code sections 11165.7(a)(15) and (18) whereby Defendants were required to report suspected child abuse and/or neglect of Plaintiff and to make initial reports of abuse and/or neglect as mandated by Penal Code sections 11165.9 and 11166(a);"
4. Paragraph 16(c) in its entirety, on page 4, lines 19-21: "Penal Code section 11165.9 whereby Defendants were required to accept reports of suspected child abuse and/or neglect of Plaintiff and to maintain a record of all reports received as mandated by that section(s);"
5. Paragraph 16(d) in its entirety, on page 4, lines 22-23: "Welfare and Institutions Code 328, 16504(a), 16501(d), and/or 16501(f) and/or DSS Regulations 31-101, 31-105, 31-110, 31-115, 31-120, and/or 31-125."
6. Paragraph 16(d), on page 4, line 22: "Welfare and Institutions Code 328, 16504(a), 16501(d), and/or 16501(f)"

a. Type of Injury

The County again argues that Plaintiff fails to allege what type of injury any of the alleged mandatory enactments were intended to prevent or that she suffered those types of injuries. This general argument does not address the statutes alleged in the complaint. Therefore, the County fails to meet its burden on this issue.

b. Mandatory Duties

The County argues that none of the enactments or statutes cited by Plaintiff impose any mandatory duties upon it and thus cannot form the basis of a Gov. Code Section 815.6 cause of action.

i. Penal Code section 11164 et seq.

While the complaint alleges violation of Penal Code section 1164, et seq. It is clear Plaintiff intends to allege violation of CANRA, or Penal Code section 11164, et seq.

The County again relies upon *Jacqueline T, supra,* 115 Cal. App. 4th 456. As discussed above, this case is distinguishable.

ii. Penal Code section 11165.7

The County argues that Penal Code section 11165.7 only defines a "mandated reporter" and does not impose any duty.

The complaint alleges: "Penal Code sections 11165.7(a)(15) and (18) whereby Defendants were required to report suspected child abuse and/or neglect of Plaintiff and to make initial reports or follow up reports within 36 hours of receiving said reports of abuse and/or neglect as mandated by Penal Code sections 11165.9 and 11166(a)." (Complaint, ¶16.b.)

Thus, the complaint relies upon sections 11165.9 and 11166. Its reference to 11165.7 is only to allege that the County and its agents or employees are mandated reporters under that statute.

iii. Penal Code sections 11165.9 and 11166(a)

The County argues that Plaintiff has not alleged sufficient facts to constitute a separate cause of action under either statute. Namely, the Complaint fails to allege the requisite elements of an 815.6 cause of action (i.e., that the statute was intended to protect against the type of harm suffered or that breach of the statute's mandatory duty was a proximate cause of the injury suffered, other than in a conclusory fashion). The County alleges the complaint fails to allege facts suggesting that either of these statutes are applicable in this case. For example, it fails to allege that any individual with the County had knowledge of, or reasonably suspected that, Plaintiff was the victim of child abuse or neglect.

It is the court's opinion that these are evidentiary facts which do not need to be alleged in the complaint. The complaint has alleged the ultimate facts and is therefore sufficient.

iv. Welfare & Institutions Code §§ 328, 16504(a), 16501(d), and/or 16501(f)

The County argues that these statutes only require investigation of reports of abuse when an employee suspects abuse and that the complaint does not contain any such allegations. The County again construes the complaint to allege only its failure to investigate in response to reports of abuse. However, as noted above, the instant complaint is distinguishable as it alleges Plaintiff was in the County/agent/employee's custody and care.

v. Department of Social Services Child Welfare Services Manual §§ 31-101, 31-105, 31-110, 31-115, 31-120 and/or 31-125

The County argues that Plaintiff's generalized citations to these chapters within the DSS Manual are ambiguous, vague, and uncertain, and that because it is simply a handbook of state laws, it cannot impose a mandatory duty on its own. No authority is supported for the County's position. Therefore, it has failed to meet its burden on this issue.

c. "Including, but not limited to"

The County argues that this language is legally invalid because it causes the statutory causes of action to be uncertain on the grounds that a statutory cause of action must be pled with particularity. No authority is cited that this type of language must be removed to make a statutory cause of action valid.

d. Discretionary Immunity

The County again argues that the allegations in the complaint only describe discretionary actions. The County cites cases discussing demurrers and its view that the subject complaint only alleges failure to investigate. It has not shown that any of the allegations must be stricken from the complaint.

e. Conclusion and Order

The County's motion to strike is DENIED.

Plaintiff's counsel is directed to submit a written order to the court consistent with this ruling and in compliance with Cal. Rules of Court, Rule 3.1312.

6. SCV-267521, The Design Build Company, LLC v. De Arkos

Defendant Eduardo De Arkos ("Defendant") moves to strike the cost bill of Plaintiff The Design Build Company, LLC ("DBC") in the amount of $19,741.00.

Defendant's prior counsel, Robert Nellessen, filed this motion on August 13, 2025. The Notice of Motion states that the cost bill was intentionally served on him on August 4, 2025, by email while he was on vacation. Mr. Nellessen's declaration only states that he was on vacation and unavailable from July 30, through August 11, 2025. (Nellessen decl., ¶6.) The declaration does not support finding that the timing of the service was deliberately nefarious.

In his memorandum, Defendant argues that he is the prevailing party, not DBC. This is partially true. Defendant was the prevailing party on DBC's complaint. However, DBC was the prevailing party on Defendant's cross-complaint.

The memorandum of costs in question was filed by DBC on July 29, 2025. Defendant's motion fails to cite any authority in support of striking the cost bill in its entirety. Accordingly, **the motion is DENIED.**

DBC's counsel is directed to submit a written order to the court consistent with this ruling and in compliance with Cal. Rules of Court, Rule 3.1312.