

**TENTATIVE RULINGS
LAW & MOTION CALENDAR
Friday, July 10, 2026 3:00 p.m.
Courtroom 17 – Hon. Jane Gaskell
3035 Cleveland Avenue, Santa Rosa**

PLEASE NOTE: In accordance with the Order of the Presiding Judge, a party or representative of a party may appear in Department 17 in person or remotely by Zoom, a web conferencing platform.

CourtCall is not permitted for this calendar.

If the tentative ruling is accepted, no appearance is necessary via Zoom unless otherwise indicated.

TO JOIN D17 ZOOM ONLINE:

Meeting ID: 161 126 4123

Passcode: 062178

<https://sonomacourt-org.zoomgov.com/j/1611264123>

TO JOIN ZOOM BY PHONE:

By Phone (same meeting ID and password as listed for each calendar):

+1 669 254 5252

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** Judge Gaskell's Judicial Assistant by telephone at **(707) 521-6723**, and all other opposing parties of your intent to appear, and **whether that appearance is in person or via Zoom**, by **4:00 p.m. the court day immediately preceding the day of the hearing.**

1. 26CV02220, Hernandez v. Carrillo

Cynthia Hernandez moves the Court to transfer a small claims matter (26SC00050) to this Department pursuant to C.C.P. section 116.390. Plaintiff in the small claims matter, Jose Guadalupe Carrillo, filed his action against Ms. Hernandez on January 22, 2026, alleging illegal lockout and related claims. Ms. Hernandez filed a Complaint in this Court on March 16, 2026, that exceeds small claims jurisdictional limits, relating to the same contract and/or events in Plaintiff Guadalupe Carrillo's small claims matter. However, the statute governing transfers clearly requires that the request for transfer be made in the small claims court, not in the Department where the Complaint was filed. (C.C.P. § 116.390(a) ["the defendant may commence an action against the plaintiff in a court of competent jurisdiction and *request the small claims court* to transfer the small claims action to that court"] [emphasis added].) Subdivision (c) governs the small claims court's ruling on a motion to transfer. Therefore, Ms. Hernandez's motion is **DENIED** as such a ruling must be made by the small claims court, not this Department. Furthermore, subdivision (b) governs the procedural requirements

for bringing motions to transfer, which includes personal delivery of the complaint and required declaration to plaintiff on or before the time set for a transfer hearing.

The Minute Orders shall serve as the order of the Court. Ms. Hernandez is **ORDERED** to attach these Minute Orders to any motion for transfer made in the related small claims matter (26SC00050).

2. 25CV01031, Rodriguez v. Goodwill Industries of the Redwood

Plaintiff Oliver Rodriguez (“Plaintiff”) moves to compel Defendant Goodwill Industries of the Redwood (“Defendant”) further responses to Request for Production (“RFPD”) No. 21 pursuant to C.C.P. section 2023.010. The motion is **GRANTED** as discussed below. Defendant shall produce objection-free responses to RFPD No. 21 no later than fifteen (15) days after notice of this Order. Sanctions are **GRANTED** in favor of Plaintiff in the reduced total amount of \$2,600.00.

I. FACTUAL & PROCEDURAL HISTORY

On February 10, 2025, Plaintiff filed a class action complaint against Defendant alleging various violations of (1) failure to pay minimum and straight time wages; (2) failure to pay overtime wages; (3) failure to provide meal periods; (4) failure to authorize and permit rest periods; (5) failure to indemnify necessary business expenses; (6) failure to timely pay final wages at termination; (7) failure to provide accurate itemized wage statements; and (8) unfair business practices. On April 16, 2025, Plaintiff filed a First Amended Complaint to add a cause of action under the Private Attorneys General Act. On January 21, 2026, Plaintiff propounded RFPD, Set Three on Defendant. (Leviant Decl., ¶ 5, Exhibit A.) The RFPD at issue requests all documents and electronic data to identify all potential class members and their contact information. (Leviant Decl., ¶ 5, Exhibit A.) Defendant’s response, which was due on February 24, 2026, was not served until February 25, 2026, and was an objection-only response stating that the request is overbroad, vague, ambiguous, overly burdensome, and a violation of employee privacy rights under the California Constitution. (Leviant Decl., Exhibit C.) Plaintiff now seeks to compel Defendant’s further response to the single RFPD at issue.

II. DISCUSSION

A. Motions to Compel and Compel Further Generally

C.C.P. section 2031.300 provides that if a party fails to serve timely responses to requests for production of documents, the responding party waives all objections, including those based on privilege and work product and “[t]he party making the demand may move for an order compelling [a] response to the demand.” (C.C.P. § 2031.300(a)–(b).) A party may move for an order compelling further responses and sanctions if initial responses are incomplete, evasive, or an asserted objection is meritless or too general. (See C.C.P. § 2031.310(a) [compelling further response to demand for inspection]; C.C.P. § 2031.310(h) [monetary sanctions for unsuccessfully making or opposing a motion to compel a further response to demand for inspection].)

B. The Court Did Not Intend to Close Discovery but Nevertheless Reopens Discovery

Defendant further argues that Plaintiff's motion is untimely because trial was initially set for May 15, 2026 (which the Court vacated) and this motion is not set to be heard until July 10, 2026, in violation of C.C.P. section 2024.020. In the Court's May 15th Order, it erred by not tolling all relevant dates related to trial, including discovery cutoff. It was not the Court's intention to have discovery close this soon, especially before class certification occurred. A hearing regarding class certification is currently scheduled for February 16, 2027, at 9:00 a.m. Furthermore, the Court has not reset the trial date in this case, which the Court anticipates discussing at the next Case Management Conference ("CMC") set on August 20, 2026, at 3:00 p.m.

The court in *Pelton-Shepherd Industries, Inc.* held that the trial court abused its discretion in considering plaintiff's motion to compel without first deciding whether to re-open discovery under C.C.P. section 2024.050. (*Pelton-Shepherd Industries, Inc. v. Delta Packaging Products, Inc.* (2008) 165 Cal.App.4th 1568, 1590.) The decision to reopen discovery must weigh: (1) the necessity and the reasons for the discovery; (2) the diligence or lack of diligence of the party seeking the discovery or the hearing of a discovery motion, and the reasons that the discovery was not completed or that the discovery motion was not heard earlier; (3) any likelihood that permitting the discovery or hearing the discovery motion will prevent the case from going to trial on the date set, or otherwise interfere with the trial calendar, or result in prejudice to any other party; (4) the length of time that has elapsed between any date previously set, and the date presently set, for the trial of the action. (See C.C.P. § 2024.050.) The closure of discovery does not mean that the Court lacks the power to hear a discovery matter, nor that it errs in determining that matter on the merits. (*Pelton-Shepherd Industries, Inc. v. Delta Packaging Products, Inc.* (2008) 165 Cal.App.4th 1568, 1586.)

Here, as explained above, the Court did not intend to omit the language tolling all dates in accordance with the new trial date in its May 15th Order and did not intend to have discovery close prior to class certification. Trial has not been reset from May 15, 2026, and there has been no lack of diligence from the parties. Plaintiff filed the instant motion on March 11, 2026, which was two months before trial, but the Court could not accommodate a hearing date on the motion until July. Permitting the discovery requested in this motion will help this case proceed to trial as it will help Plaintiff identify and define the class it seeks to certify at the February 16, 2027, hearing and will not prejudice Defendant. Thus, these factors weigh in favor of reopening discovery. The Court will address the setting of trial and the tolling of related dates at the August 20th CMC.

C. Defendant Has Waived Objections and Counsel Concedes the Response Was Untimely

In Opposition, Defendant asserts various contradictory arguments. It argues that it did not waive its objections by serving responses one day late but simultaneously contends that the Court is authorized to relieve a party from such waiver pursuant to C.C.P. section 2031.300(a). Defendant also concedes that it served its responses one day late due to a calendaring error. Therefore, Defendant has waived all objections pursuant to C.C.P. section 2031.300(a), rendering the February 25th objection-

only response to RFPD No. 21 improper. Even though it was only one day late, Defendant's response was still late. While C.C.P. section 2031.300(a) allows the Court to relieve a party from waiver of objections, the statute requires such relief to be requested "on motion" and is not properly sought as affirmative relief in opposition as Defendant does so here. (See *Scottsdale Ins. Co. v. Superior Court* (1997) 59 Cal.App.4th 263, 274–276 [characterizing a party's relief from waiver sought via their opposition as an "afterthought" under the former version of the statute].)

D. Balancing Weighs in Favor of Disclosure

Even without Defendant's waiver, Plaintiff is entitled to the discovery which allows them to present evidence on class certification issues. (*Carabini v. Superior Court* (1994) 26 Cal.App.4th 239, 244.) This is "so the trial court can realistically determine if common questions are sufficiently pervasive to permit adjudication in a class action." (*Stern v. Superior Court* (2003) 105 Cal.App.4th 223, 233, citing *Atari, Inc. v. Superior Court* (1985) 166 Cal.App.3d 867, 870.) When weighing precertification discovery, the trial court must apply all the normal rules governing discovery motions, but also "expressly identify any potential abuses of the class action procedure that may be created if the discovery is permitted, and weigh the danger of such abuses against the rights of the parties under the circumstances." (*Parris v. Superior Court* (2003) 109 Cal.App.4th 285, 301.) Discovery orders into the identification of class members shall weigh the privacy rights of those class members prior to granting any such relief. (*Starbucks Corp. v. Superior Court* (2011) 194 Cal.App.4th 820, 825–826 [where the trial court granted plaintiffs' request for discovery of names of class members with marijuana convictions, that order violated the very privacy rights plaintiffs purportedly were attempting to use as a cause of action].)

The California Constitution "protects the individual's *reasonable* expectation of privacy against a *serious* invasion." (*Crab Addison, Inc. v. Superior Court* (2008) 169 Cal.App.4th 958, 966 [citations omitted].) The court in *Crab Addison, Inc.* considered the issue of privacy when disclosing contact information of potential class members:

While contact information generally is considered private, this "does not mean that the individuals would not want it disclosed under these circumstances." (*Puerto v. Superior Court, supra*, 158 Cal.App.4th at pp. 1252–1253, 70 Cal.Rptr.3d 701.) While employees would not likely want their contact information broadly disseminated, this does not mean they would want it withheld "from plaintiffs seeking relief for violations of employment laws in the workplace that they shared." (*Id.* at p. 1253, 70 Cal.Rptr.3d 701.) Rather, employees similarly situated to petitioners "may reasonably be supposed to want their information disclosed to counsel whose communications in the course of investigating the claims asserted in [petitioners'] lawsuit may alert them to similar claims they may be able to assert." (*Ibid.*)

(*Crab Addison, Inc., supra*, 169 Cal.App.4th at 967.) Furthermore, contact information for witnesses "ordinarily is produced during discovery, and "it is neither unduly personal nor overly intrusive" and "it is only under unusual circumstances that the courts restrict discovery of nonparty witnesses' residential contact information." (*Ibid.* [citations omitted].)

Here, Defendant argues that disclosure is improper because there has been no court order authorizing the disclosure of employees' contact information, no finding that the proposed class is viable, and no demonstration that less intrusive alternatives are inadequate. Defendant further contends that Plaintiff "want[s] a list of employees to fish around for harmed future plaintiffs." (Opposition, 8:26–27.) Conversely, Plaintiff asserts that Defendant requires the Court's authorization to proceed because it has refused to engage in alternative methods to complete precertification discovery and no serious invasion of privacy issue would result from direct disclosure of the contact information because Defendant's former and current employees are percipient witnesses to Defendant's wage and hour practices. Defendant provides no authority to support its contention that Plaintiff must first seek and obtain express judicial authorization for the discovery sought (contact information), which would require the Court to engage in the *Parris* balancing test, before filing its motion to compel.

The only potential abuse identified by Defendant is Plaintiff's alleged want to trawl for harmed future Plaintiffs and the general privacy concerns under the Constitution. However, Defendant does not articulate any specific concern. The RFPD at issue requests potential class members' names, last known address, last known phone number, and last known e-mail address. None of this information poses a serious invasion of privacy in contrast to, for example, financial information or medical records. The contact information sought here was given by potential class members as a condition of employment and "most probable that the employees gave their address and telephone number to their employer with the expectation that it would not be divulged externally except as required to governmental agencies". (*Belaire-West Landscape, Inc. v. Superior Court* (2007) 149 Cal.App.4th 554, 561.) However, the court in *Crab Addison, Inc.* upheld its position that employees similarly situated to plaintiff regarding wage and hour violations "may reasonably be supposed to want their information disclosed to counsel whose communications in the course of investigating the claims asserted in [petitioners'] lawsuit may alert them to similar claims they may be able to assert." (*Crab Addison, Inc., supra*, 169 Cal.App.4th at 967.) Therefore, the information sought is relevant to the issues in this case and the motion is **GRANTED**. Defendant shall serve objection-free responses to RFPD No. 21 no later than fifteen (15) days after notice of this Order.

Lastly, the Court notes that in conjunction with its meet and confer efforts, Plaintiff served a proposed *Belaire-West* Notice on Defendant and Defendant declined to participate in the administration of such Notice. (Leviant Decl., Exhibit H–I.) Upon review of the proposed Notice, the Court observed that it states: "Please be aware that if you take no action, your name, phone number, and address, as well as **copies of your pay records, including paystubs and timecards**, will be shared with Plaintiff's attorneys..." Plaintiff does not argue in its motion that RFPD No. 21 covers copies of pay records nor does Defendant offer any objection based on the production of pay records. RFPD No. 21 specifically requests "ANY AND ALL DOCUMENTS and ELECTRONIC DATA sufficient to IDENTIFY all CLASS MEMBERS in the ACTION, including their contact information, such as their name, last known address, last known phone number, and last known e-mail address." The Court does not find this RFPD to encompass copies of pay records. However, the Court is unaware if any other RFPDs would include pay records and neither party has argued the RFPD No. 21 is applicable to pay records or raise privacy concerns on this basis.

E. Plaintiff is Entitled to Sanctions Pursuant to C.C.P. Section 2031.310(h)

Plaintiff moves for sanctions against Defendant in the amount of \$18,325.00 pursuant to C.C.P. sections 2031.010(d) and (f) and 2031.310. These sanctions are composed of 9.6 hours of work at \$975 per hour by Counsel Leviant and 16.3 hours of work at \$550 per hour by Counsel Pham. (Leviant Decl., ¶ 14.) Defendant argues that sanctions are not appropriate because it is a non-profit entity and Plaintiff “relie[d] on a Court order to overcome the privacy of individuals.”

Defendant did not act with substantial justification that would allow the Court to excuse the imposition of sanctions under section 2031.310(h). It untimely served its response to RFPD No. 21, waived its objections as a result, and refused to provide an amended response. However, the Court does not find the number of hours requested or the rates requested to be reasonable. Plaintiff’s counsel provides no breakdown of its time spent and 24 hours of work to compel a single RFPD is excessive. Furthermore, counsels’ rates are excessive for the Sonoma County locality, and they fail to justify their rates based on their levels of experience. (See *Kwan Software Engineering, Inc. v. Hennings* (2020) 58 Cal.App.5th 57, 74; *Argaman v. Ratan* (1999) 73 Cal.App.4th 1173, 1181 [costs must be both actual and reasonable].) Therefore, the Court lowers Counsels’ rates to \$600 for Counsel Leviant and \$400 for Counsel Pham and the Court reduces the number of hours to 3 hours for Counsel Leviant and to 5 hours for Counsel Pham for the preparation of the motion and their meet and confer efforts. Therefore, the Court awards fees in the reduced total amount of \$2,600.00 (\$600 for 3 hours [\$1,800] plus \$400 for 5 hours [\$2,000]). Sanctions are ORDERED in favor of Plaintiff against Defendant and its counsel jointly and severally, payable no later than 30 days from notice of entry of an order on this motion.

III. CONCLUSION

Plaintiff’s motion to compel further is **GRANTED**. Defendant shall serve objection-free responses to RFPD No. 21 no later than fifteen (15) days after notice of this Order. Sanctions are **GRANTED** in favor Plaintiff in the reduced amount of \$2,600.00. Sanctions are ordered against Defendant and its counsel jointly and severally, payable no later than 30 days from notice of an order on this motion.

Plaintiff 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).

3. 25CV00751, Kingsborough v. Guy

The hearing on Defendants’ demurrer is **CONTINUED** to **Friday, September 11, 2026 at 3:00 p.m.** in Department 17. Parties are to file supplemental briefs nine (9) court days prior to the hearing. Reply briefs are to be filed five (5) court days prior to the hearing.

4. 24CV04222, Horne v. PHH Mortgage, Corp

Defendant PHH Mortgage Corp. (“PHH”) moves for summary judgment, or summary adjudication in the alternative, to Plaintiffs William Horne and Stephanie Horne’s (together as “Plaintiffs”) Complaint pursuant to C.C.P. section 437c. Summary adjudication is **GRANTED in part** and **DENIED in part**.

Summary adjudication is **GRANTED** as to the First, Second, and Third Causes of Action asserted by William Horne for failure to state a claim. Summary adjudication is **DENIED** as to the First, Second, and Third Causes of Action asserted by Stephanie Horne.

I. Material Facts

On November 10, 2005, Plaintiff Stephanie Horne and William Horne purchased the real property located at 7336 Carioca Court in Rohnert Park, California (the “Property”) and obtained a mortgage loan secured by a deed of trust in the original principal amount of approximately \$440,000.00. (Undisputed Material Fact [“UMF”], Nos. 1–2.) A second deed of trust was recorded on November 10, 2005, in an additional loan amount of \$82,500.00. (UMF, No. 3.) Plaintiffs fell behind on their mortgage payments in 2009 and 2011 resulting in the recordation of Notice of Defaults but the Notices were rescinded and no foreclosure sale ever occurred. (UMF, Nos. 5–10.) In 2015, Plaintiffs entered into a Loan Modification Agreement that modified terms of repayment of the loan secured by the Property and Stephanie was allowed to remain residing on the Property. (UMF, No. 11.)

On or about October 11, 2016, William executed and recorded an Interspousal Transfer Deed transferring his ownership interest in the Property to Stephanie as her sole and separate property as part of the terms of their divorce. (UMF, No. 13.) In or about 2017, Plaintiffs entered into a second Loan Modification Agreement allowing Plaintiff Stephanie to remain on the property. (UMF, No. 12.) In 2023, Plaintiffs fell behind on their mortgage payments. (UMF, No. 16.) On May 19, 2023, a Notice of Default and Election to Sell Under Deed of Trust was recorded against the Property but a Notice of Recission of Notice of Default was recorded on September 12, 2023. (UMF, No. 17.) On or about September 21, 2023, a subsequent Notice of Default and Election to Sell Under Deed of Trust was recorded against the Property in the amount of \$36,191.00. (UMF, No. 18.) On or about January 17, 2024, a Notice of Trustee’s Sale was recorded against the Property. (UMF, No. 19.) On or about February 13, 2024, a second Notice of Trustee’s Sale was recorded against the Property. (UMF, No. 20.)

PHH contends that Plaintiffs allowed the loan to fall into default to pursue loan modification and made no payments from January 2024 through the present. (UMF, No. 21.) However, Plaintiffs maintain that the loan fell into default because PHH’s autopay system failed to adjust Plaintiffs’ payments with the interest rate on the loan when interest rates increased and that a PHH representative informed Stephanie that the loan needed to remain in default for three months to qualify for a loan modification. (UMF Response, No. 21.) PHH contends that it did not instruct Plaintiffs to stop making mortgage payments, but Plaintiffs dispute this fact. (UMF and Response, No. 22.)

On or about May 23, 2024, Plaintiffs submitted a mortgage assistance application with PHH requesting a loan modification, which PHH then informed Plaintiffs on or about June 17, 2024, that the mortgage assistance application was under review and all related foreclosure activity was placed on hold during the evaluation of application. (UMF, No. 24.) Plaintiffs were assigned a relationship manager for communications regarding their loan modification application which was communicated to Plaintiffs via a letter dated June 17, 2024, including the name and contact information for the assigned relationship manager. (UMF, Nos. 25–26.) On or about June 21, 2024, PHH issued a written denial of the May loan modification application stating that it was unable to create a post-modification monthly payment that satisfied the debt-to-income ratio required by the investor for the loan. (UMF, No. 27.) Plaintiffs had 30 days to submit an appeal of the June 21st denial, which Stephanie appealed on July 17, 2024. (UMF, Nos. 28, 31.) Plaintiffs claim that while the loan modification appeal was pending, there was a Trustee’s Sale scheduled for July 27, 2024, but that it was postponed on July 24, 2024, because Plaintiff’s obtained a temporary restraining order from this Court preventing any Trustee’s Sale. (Additional Material Fact, Nos. 7–8.) Plaintiffs argue that whether they were “afforded an appeal process” is disputed because their appeal was not reviewed prior to the Trustee’s Sale. (UMF Response, No. 12.) Plaintiffs claim they have not received a response to their appeal as of July 24, 2024. (Additional Material Fact, No. 9.) To date, no foreclosure sale of the Property has occurred, no Trustee’s Deed Upon Sale has been recorded and Stephanie continues to reside and possess the Property. (UMF, No. 38.)

The degree of William’s knowledge of Stephanie’s actions with PHH and the loan modification applications is disputed. PHH claims that William testified that he was not aware that a loan modification was submitted in May 2024, that the signature next to his name on the application is not his signature, that he had no knowledge of the May 2024 loan modification application, that he did not review, submit or participate in the preparation of any loan modification application in 2023 or 2024, and did not authorize anyone to sign his name or submit a loan modification application on his behalf. (UMF, Nos. 32–36.) Stephanie maintains that it is disputed as to whether William knew “generally” that he was submitting loan modification applications using his financial information he gave to Stephanie but that he did not have knowledge of each application submitted. (UMF Response, Nos. 32, 34, 36.)

On July 19, 2024, Plaintiffs filed their Complaint against PHH alleging three causes of action: violations of Civil Code section 2923.6, violations of Civil Code section 2923.7, and violations of the California Business and Professions Code section 17200, et seq. PHH now moves for summary judgment, or summary adjudication in the alternative, to all three causes of action.

II. Governing Law

A. Standard at Summary Judgment/Adjudication Generally

A party moving for summary judgment must show that there is no triable issue as to any material fact and the moving party is entitled to a judgment as a matter of law. (CCP § 437c(c).) A

party moving for summary adjudication of a cause of action must prove that the cause of action has no merit and summary adjudication may only be granted if it completely disposes of the cause of action. (C.C.P. § 437c(f)(1).) “A defendant or cross-defendant has met his or her burden of showing that a cause of action has no merit if the party has shown that one or more elements of the cause of action, even if not separately pleaded, cannot be established, or that there is a complete defense to the cause of action.” (C.C.P. § 437c(p)(2).) “Once the defendant or cross-defendant has met that burden, the burden shifts to the plaintiff or cross-complainant to show that a triable issue of one or more material facts exists as to the cause of action or a defense thereto.” (*Ibid.*)

“From commencement to conclusion,” the moving party bears the burden of persuasion and production to make a prima facie showing that there are no triable issues of material fact. (*Aguilar v. Atlantic Richfield Co.* (2001) 25 Cal.4th 826, 850.) “There is no obligation on the opposing party...to establish anything by affidavit unless and until the moving party has by affidavit stated facts establishing every element...necessary to sustain a judgment in his favor.” (*Consumer Cause, Inc. v. SmileCare* (2001) 91 Cal.App.4th 454, 468.) Defendants can meet their burden by showing a cause of action has no merit by showing that one or more elements of the cause of action “cannot be established.” (See C.C.P. § 437c(p)(2).) Once the defendant has met that burden, the burden shifts to the plaintiff to show that a triable issue of one or more material facts exists as to that cause of action or defense. (*Aguilar, supra*, 25 Cal.4th at p. 849.)

B. California Homeowner Bill of Rights

The California Homeowner Bill of Rights (“HBOR”) is “a complex set of enactments focused specifically on residential mortgages and passed as a legislative response to the ongoing mortgage foreclosure crisis in 2012” and is “principally designed to ensure that ‘as part of the nonjudicial foreclosure process, borrowers are considered for, and have a meaningful opportunity to obtain, available loss mitigation options, if any, offered by or through the borrower’s mortgage servicer, such as loan modifications or other alternatives to foreclosure.’” (*Morris v. JPMorgan Chase Bank, N.A.* (2022) 78 Cal.App.5th 279, 295 [citations omitted].) “For ‘material violation’ of any one of a list of nine statutory provisions within its scheme, it authorizes pre-foreclosure injunctive relief (§§ 2924.12, subd. (a)(1), 2924.19, subd. (a)(1)); post-foreclosure claims for ‘actual economic damages pursuant to Section 3281’ (§§ 2924.12, subd. (b), 2924.19, subd. (b)); the greater of trebled damages or \$50,000 where the violation was ‘intentional or reckless’ or ‘resulted from willful misconduct’ (§§ 2924.12, subd. (b), 2924.19, subd. (b)); and attorney fees and costs as a reward to prevailing claimants (§ 2924.12, subd. (h); § 2924.19, subd. (h)).” (*Ibid.*)

Civil Code Section 2923.6

The HBOR prohibits “dual tracking” which is a practice where “a lender or servicer pursues foreclosure while simultaneously going through the motions of reviewing a borrower’s application for foreclosure mitigation, without a good faith intent to entertain the application.” (*Morris, supra*, 78 Cal.App.5th at 296, citing *Jolley v. Chase Home Finance, LLC* (2013) 213 Cal.App.4th 872, 904.) In essence, a mortgage servicer, mortgagee, trustee, beneficiary, or authorized agent may not initiate and

pursue a trustee's sale until a completed and still pending application of loan modification is fully resolved. (*Morris, supra*, 78 Cal.App.5th at 296, citing Civ. Code § 2923.6, subds. (c)–(h).) “Where loan modification is denied, the bar on dual tracking prohibits the recording of a notice of default, the recording of a notice of sale, or the conduct of a sale, until the lender or servicer sends the borrower a written denial letter, giving reasons for the denial and advising the borrower she has 30 days to appeal. (§ 2923.6, subds. (c), (d), (f).)” (*Morris, supra*, 78 Cal.App.5th at 296.)

Civil Code Section 2923.7

Civil Code section 2923.7(a) provides that “[w]hen a borrower requests a foreclosure prevention alternative, the mortgage servicer shall promptly establish a single point of contact and provide to the borrower one or more direct means of communication with the single point of contact” and Section 2923.7(b) provides that the single point of contact shall be responsible for:

- (1) Communicating the process by which a borrower may apply for an available foreclosure prevention alternative and the deadline for any required submissions to be considered for these options.
- (2) Coordinating receipt of all documents associated with available foreclosure prevention alternatives and notifying the borrower of any missing documents necessary to complete the application.
- (3) Having access to current information and personnel sufficient to timely, accurately, and adequately inform the borrower of the current status of the foreclosure prevention alternative.
- (4) Ensuring that a borrower is considered for all foreclosure prevention alternatives offered by, or through, the mortgage servicer, if any.
- (5) Having access to individuals with the ability and authority to stop foreclosure proceedings when necessary.

Section 2923.7(c) provides that the single point of contact shall remain assigned to the borrower's account “until the mortgage servicer determines that all loss mitigation options offered by, or through, the mortgage servicer have been exhausted or the borrower's account becomes current.” A “single point of contact” is defined as “an individual or team of personnel each of whom has the ability and authority to perform the responsibilities described in subdivisions (b) to (d), inclusive” and “the mortgage servicer shall ensure that each member of the team is knowledgeable about the borrower's situation and current status in the alternatives to foreclosure process.” (Civ. Code § 2923.7(e).)

C. Unfair Competition Law

Business and Professions Code section 17200 (commonly called the Unfair Competition Law, or “UCL”), prohibits “any unlawful, unfair or fraudulent” business practices.” (Bus. & Prof. Code §17200.) “Since section 17200 is [written] in the disjunctive, it establishes three separate types of unfair competition” and “prohibits practices that are either ‘unfair’ or ‘unlawful,’ or ‘fraudulent.’” (*Pastoria v. Nationwide Ins.* (2003) 112 Cal.App.4th 1490, 1496; see also *CelTech Commc'ns, Inc. v. Los Angeles Cellular Tel. Co.*, (1999) 20 Cal.4th163, 180.) “Prevailing plaintiffs [under the UCL] are generally limited to injunctive relief and restitution. Plaintiffs may not

receive damages ... or attorney fees.” (*Zhang v. Superior Court* (2013) 57 Cal.4th 364, 371 [internal quotations omitted].) Punitive damages are not recoverable under the UCL. (*Id.* at 376.)

A business practice may be “unfair or fraudulent in violation of the UCL even if the practice does not violate any law.” (*Olszewski v. Scripps Health* (2003) 30 Cal.4th 798, 827.) “Unlike common law fraud, a UCL fraud claim “can be shown even without allegations of actual deception, reasonable reliance and damage”; what is required to be shown is “that members of the public are likely to be deceived.” (*Collins v. eMachines, Inc.* (2011) 202 Cal.App.4th 249, 258 [internal quotations omitted].)

III. Discussion

A. First Cause of Action – Violations of Civil Code Section 2923.6

First, PHH argues that Plaintiffs cannot sustain a claim for a violation under Section 2923.6 because PHH did not engage any foreclosure conduct prohibited by the statute and no Trustee’s Sale occurred during the pendency of the application or at any other time. Plaintiff argues that there is a triable issue of material fact as to whether PHH violated this statute by failing to postpone the scheduled Trustee’s Sale while Plaintiffs’ Loan Modification was pending in the appeal process. Plaintiffs argue that they were still within the appeal process when the Trustee’s Sale was scheduled and PHH took no action to postpone the sale during the appeal period.

Here, Plaintiffs timely appealed the May 2024 loan modification application denial on July 17, 2024. A Trustee’s Sale was scheduled for July 26, 2024, but was postponed on July 24, 2024, by this Court issuing a temporary restraining order preventing a foreclosure sale of the Property. Section 2923.6(c)(1) forbids a mortgage servicer, mortgagee, trustee, beneficiary, or authorized agent from recording a notice of default or notice of sale or conducting a trustee’s sale until the mortgage servicer makes a written determination that the borrower is not eligible for a first lien loan modification, and any appeal period pursuant to subdivision (d) has expired. Section 2923.6(e)(2) provides that if the borrower’s application for a first lien loan modification is denied, the mortgage servicer shall not record a notice of default or, if a notice of default has already been recorded, record a notice of sale or conduct a trustee’s sale until 15 days after the denial of the appeal.

PHH’s contention that it is entitled to summary judgment/adjudication because there is no triable issue of fact is misplaced based on the chronology of events in this case. On September 21, 2023, PHH recorded a Notice of Default and Election to Sell. (Verdooren Decl., Exhibit 14.) On January 17, 2024, a Notice of Trustee’s Sale was recorded against the Property with a sale date of February 28, 2024. (Verdooren Decl., Exhibit 15.) On February 13, 2024, PHH recorded a second Notice of Trustee’s Sale with a date of sale of March 27, 2024. (Verdooren Decl., Exhibit 16.) On May 23, 2024, Plaintiffs submitted a loan modification application to PHH, which was denied on June 21, 2024. (Verdooren Decl., Exhibits 17, 19.) Plaintiff timely appealed the denial on July 17, 2024. (Verdooren Decl., Exhibit 20.) The February Notice of Trustee’s Sale states that the sale date may be postponed one or more times pursuant to Civil Code section 2924g. (Verdooren Decl., Exhibit 16, page

3 of 4.) Section 2924g requires that a new notice of trustee's sale be given pursuant to Section 2924f if sale proceedings are postponed for a period or periods totaling more than 365 days. (Civ. Code § 2924g(c)(2).) "The notice of each postponement and the reason therefor shall be given by public declaration by the trustee at the time and place last appointed for sale." (Civ. Code § 2924g(d)(1).)

While PHH recorded a Notice of Default and the second Notice of Trustee's Sale *before* Plaintiffs' May loan modification application was submitted, it is unclear when the postponement of the Trustee's Sale (scheduled to occur on July 26, 2024) was noticed. That is a triable issue of fact because a violation of Section 2923.6 is dependent upon the timing of PHH conducting and pursuing a Trustee's Sale. But for the Court enjoining PHH from conducting the Trustee's Sale on July 26, 2024, two days prior on July 24, 2024, it is not certain whether PHH would have pursued the July 26th Sale. It is undisputed that there was a Trustee's Sale of the Property scheduled for July 26, 2024, and Plaintiffs had timely appealed the June denial of the May loan modification application on July 17, 2024. Pursuant to Section 2923.6(e)(2), PHH was prohibited from conducting a trustee's sale until at least 15 days after the denial of the appeal. PHH does not present any evidence that it has made a final written decision on Plaintiffs' July 17th appeal to date. Section 2923.6 "prohibits mortgage servicers from proceeding with the foreclosure process while a borrower's application for a loan modification is pending." (*Billesbach v. Specialized Loan Servicing LLC* (2021) 63 Cal.App.5th 830, 838.) PHH has failed to show that there is no triable issue of fact. The chronology of the events in this case demonstrate that the May loan modification application was denied, timely appealed, with no written decision ever rendered on the appeal, prohibiting PHH from conducting a trustee's sale until 15 days after the denial of the appeal, which has not happened to date. Therefore, triable issues of fact remain as to whether Plaintiff's May application was still pending when PHH was pursuing the postponed Trustee's Sale in July and the related timing of PHH's actions when it postponed the Trustee's Sale, which is dispositive of whether PHH violated Section 2923.6. Summary adjudication of the First Cause of Action is **DENIED**.

B. Second Cause of Action – Violations of Civil Code Section 2923.7

Next, PHH argues that it did not violate Section 2923.7 because it appointed a single point of contact ("SPOC") (which PHH designates as a relationship manager) in connection with the May 2024 loan modification application as required by the statute. Plaintiff claims that there are triable issues of material fact regarding whether PHH upheld its duties under Section 2923.7 because Plaintiffs were not given a direct means of communication with their relationship manager and could often not get hold of their relationship manager. Instead, Plaintiffs were transferred to other representatives who had no knowledge of the account and would provide contradictory information, which materially impacted her consideration for a loan modification. In Reply, PHH claims that Plaintiffs improperly plead a new theory in their opposition that was not pled in the Complaint.

In the Complaint, Plaintiffs allege that PHH failed to promptly establish a single point of contact and provide one or more direct means of communication with the SPOC. (Complaint, ¶¶ 37–38.) In the Opposition, Plaintiffs contend that they were not provided a direct means of communication because the contact information given was a generic customer service phone line and a generic email

address and they were given contradicting information by several PHH representatives. (Opposition, 15:19–16:4.) The Court does not find these theories to be outside the scope of what was pled in the Complaint. Plaintiffs’ claims are premised on the alleged inadequacies of PHH’s compliance with Section 2923.7, including the lack of direct means of communication with their relationship manager and each relationship manager spoken to not accurately and adequately informing the borrower of the current status of the foreclosure prevention alternative. There are triable issues of fact regarding Plaintiffs’ inability to consistently contact their relationship manager and their inability to receive accurate and adequate information about the loan modification process and their eligibility for a modification. (*Billesbach, supra*, 63 Cal.App.5th at 845 [“However, federal district courts applying California law have held that a violation is material if it affected the borrower’s loan obligations, disrupted the loan-modification process, or otherwise harmed the borrower in connection with the borrower’s efforts to avoid foreclosure.”].) Therefore, Plaintiff has shown that a triable issue of one or more material facts as to a violation of Section 2923.7. Summary adjudication is **DENIED** as to the Second Cause of Action.

C. Third Cause of Action – Violations of UCL

Lastly, PHH argues that Plaintiff’s UCL claim fails as a matter of law because this claim is entirely derivative of the first two causes of action, which fail, and Plaintiff cannot identify out-of-pocket financial loss. As cited by Plaintiffs, “California courts have regularly held that plaintiffs have standing to bring suit under the UCL when they are subjected to an invasion of economic or property rights, or face imminent legal peril, even when they do not suffer actual out-of-pocket financial damages or loss of tangible property.” (*Campbell v. FPI Management, Inc.* (2024) 98 Cal.App.5th 1151, 1167–1171.) The Court finds that Plaintiff has sufficiently raised triable issues of fact surrounding PHH’s actions, or nonactions, and pursuing the postponed Trustee’s Sale and PHH’s compliance with Section 2923.7, which establishes a triable issue of fact as to whether PHH’s conduct was “unlawful” as described under the UCL. Summary adjudication is **DENIED** as to the Third Cause of Action.

D. Plaintiff William Horne Fails to State a Claim Against PHH

Lastly, PHH argues that William cannot state a claim against PHH because he did not sign the May 2024 loan modification application, that the signature on this application was not his, and that he has suffered any damages and is not seeking relief from PHH. (UMF, Nos. 18, 21, 22.) Plaintiff contends that William is a necessary party to this action because he is a borrower on the loan and remains liable under the terms of the loan and any modification of the loan affects his obligations under the loan.

By testifying that he has not suffered any damages, is not seeking relief from PHH, that the signature on the May 2024 application was not his, and that he was not involved in the May 2024 application (other than his financial information was used with his permission for Stephanie to obtain a loan modification), William cannot state a claim against PHH. William’s declaration in support of the Opposition does not dispute any of these facts either and his status as a co-borrower on the loan does

not affect his inability to state a claim against PHH at this juncture. Summary adjudication is **GRANTED** as to the first three causes of action as asserted by William.

IV. Conclusion

Summary adjudication is **DENIED** as to the First, Second, and Third Causes of Action asserted by Stephanie Horne and **GRANTED** as to the First, Second, and Third Causes of Action asserted by William Horne.

PHH's counsel 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).

5. 24CV06362, Shumate v. Sonoma County Sheriff's Office

APPEARANCES REQUIRED

Defendant Sonoma County Sheriff's Office (the "Defendant") demur to Plaintiff Benjamin Shumate's ("Plaintiff") First Amended Complaint ("FAC") on several bases pursuant to C.C.P. section 430.10. The demurrer is **SUSTAINED** with leave to amend. Plaintiff shall file an amended complaint no later than 60 calendar days from notice of entry of an order on this motion.

I. FACTUAL & PROCEDURAL HISTORY

Plaintiff was formerly incarcerated at the Sonoma County Main Adult Detention Facility ("MADF") from January 2024 to April 2025 and was transferred to the California Department of Corrections and Rehabilitation on May 8, 2025, after he was sentenced to a prison term of 13 years. (Demurrer, 8:3–8.) Plaintiff filed the Complaint in this case for an intentional tort challenging several conditions of his confinement. (See Complaint, filed October 25, 2024.) Defendant previously demurred to the Complaint, which this Court sustained with leave to amend and stayed the action until the three other actions filed by Plaintiff were resolved. (See Order on Demurrer, filed March 25, 2025.) All other actions have been resolved: writ of habeas in Sonoma County Superior Court (SCR-756294-1; PRL 202102-1) denied on February 18, 2025 and affirmed after reconsideration on April 8, 2025 and April 18, 2025; petition for writ of mandate against Sheriff Engram (24CV06294) dismissed on March 25, 2025; and a federal civil rights complaint in the Northern District Court of California (24-cv-06901-CRF) on September 24, 2025, was also dismissed. (Demurrer, 8:19–9:3; Bruggisser Decl., Exhibits E1–E-3, F, G1–G2.) Plaintiff filed his FAC on September 8, 2025, with eight allegations related to his confinement:

1. Plaintiff did not receive a minimum of ten hours per week for out-of-cell activity time, as required by 15 CCR 1065 (FAC, 2:7–13);
2. Defendant engaged in price gouging related to the jail's commissary and tablets (FAC, 2:14–20);
3. Defendant lost \$250.00 of Plaintiff's property (FAC, 2:20–21);
4. Defendant opened, read, and tampered with Plaintiff's legal mail (FAC, 2:22–28);

5. Defendant housed Plaintiff in a module with mixed custody modules which made him fear for his safety (FAC, 3:1–8);
6. Defendant retaliated against Plaintiff (by taking the former actions) for filing grievances and complaints (FAC, 3:9–19);
7. Defendant knowingly exposed Plaintiff to infectious and communicable diseases in violation of Health and Safety Code 120290 (FAC, 3:20–4:5); and
8. Defendant prevented Plaintiff from practicing his religion (FAC, 4:6–12.)

On December 23, 2025, the Court granted Defendant’s request to lift the stay and allow it to file a demurrer to Plaintiff’s FAC. (See Notice of Entry of Judgment or Order, filed December 23, 2025.) On March 17, 2026, the Court granted Plaintiff’s request to add Doe Defendants 1–18, who were named in the October 2024 Complaint. (See Order to Add Defendants, March 17, 2026.) The Court now considers Defendant’s demurrer to the FAC.

II. DISCUSSION

A. Standard at Demurrer

A demurrer can be used only to challenge defects that appear on the face of the pleading under attack or from matters outside the pleading that are judicially noticeable. (C.C.P. § 430.30(a).) A party may demur to a pleading when there is another action pending between the same parties on the same cause of action. (C.C.P. § 430.10(c).) At demurrer, all facts properly pleaded are treated as admitted, but contentions, deductions and conclusions of fact or law are disregarded. (*Serrano v. Priest* (1971) 5 Cal.3d 584, 591.) Similarly, opinions, speculation, or allegations contrary to law or facts which are judicially noticed are also disregarded. (*Coshow v. City of Escondido* (2005) 132 Cal.App.4th 687, 702.) Each evidentiary fact that might eventually form part of a party’s proof does not need to be alleged. (*C.A. v. William S. Hart Union High School Dist.* (2012) 53 Cal.4th 861, 872.) Conclusory pleadings are permissible and appropriate where supported by properly pleaded facts. (*Perkins v. Superior Court* (1981) 117 Cal.App.3d 1, 6.) “The distinction between conclusions of law and ultimate facts is not at all clear and involves at most a matter of degree.” (*Burks v. Poppy Const. Co.* (1962) 57 Cal.2d 463, 473.) Leave to amend should generally be granted liberally where there is some reasonable possibility that a party may cure the defect through amendment. (*The Swahn Group, Inc. v. Segal* (2010) 183 Cal.App.4th 831, 852.)

B. Moving Papers

Defendant generally argues that this court lacks jurisdiction over the FAC, that the FAC fails to state facts sufficient to constitute a cause of action, and that it is ambiguous. Regarding jurisdiction, Defendant contends that this Court lacks jurisdiction because Plaintiff failed to properly serve the FAC which was prematurely filed on September 8, 2025, while this action was still stayed and that Plaintiff’s claim for \$250 in lost property falls within the jurisdiction of small claims court pursuant to C.C.P. section 116.220(a)(1). (Demurrer, 10:26–11:9.) Defendant further argues that the demurrer should be sustained for failure to show Plaintiff’s exhaustion of remedies as required before an incarcerated person can resort to the courts. (*Id.* at 11:12–19.) Additionally, Defendant argues that the

FAC is uncertain and fails to state facts sufficient to constitute claims upon which relief can be granted because there is no statutory basis to impose tort liability on Defendant as a public entity and Defendant is immune from liability pursuant to the Government Claims Act. (*Id.* at 11:22–13:15.)

In Opposition, Plaintiff argues that while the FAC was improperly served using a federal proof of service form, Defendant accepted service and acknowledged its receipt of the FAC, so this Court has jurisdiction. (Opposition, 1:23–2:9.) Plaintiff next argues that while the physical damages for lost property amounts to around \$250, plaintiff pleads for other damages that amount to well over \$35,000 giving this Court jurisdiction. (*Id.* at 2:11–26.) Regarding the failure to show exhaustion of administrative remedies, Plaintiff directs the Court to his habeas corpus petition as proof of exhaustion of remedies. (*Id.* at 2:28–3:4.) Plaintiff references Exhibits B and C attached to the Opposition in which he states that he can provide ample documentation to validate all of his claims and will provide Defendant with a copy during discovery. (*Id.* at 3:6–4:2.) Plaintiff argues that property damage, emotional trauma, and violations of law causing harm are all valid causes of tort liability for private persons and therefore valid causes of tort liability for public entities and their employees citing to various cases. (*Id.* at 4:5–26.)

In Reply, Defendant argues that the FAC is completely devoid of facts to show if and to what extent plaintiff complied with the procedural prerequisite of exhausting administrative remedies through the inmate grievance process. (Reply, 2:13–3:19.) Defendant maintains that Plaintiffs’ use of his prior “Reply to Informal Response” is improper and does not provide a sufficient factual basis to support the FAC. (*Id.* at 4:4–5:4.) Defendant contends that plaintiff still failed to cite any statutory basis to impose liability as a public entity and the addition of Does 1–18 does not excuse plaintiff from alleging facts sufficient to raise a viable cause of action against Doe Defendants. (*Id.* at 6:18–7:2.) Defendant states that the three cases cited by Plaintiff regarding government immunity do not apply. (*Id.* at 7:4–22.)

C. Requests for Judicial Notice

The court may take judicial notice of facts and propositions that are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy. (Evid. Code § 452(h).) The court must take judicial notice of any matter requested by a party, so long as it complies with the requirements under Evidence Code section 452. (Evid. Code § 453.) Courts may “take judicial notice of the *existence* of judicial opinions and court documents, along with the truth of the results reached—in the documents such as orders, statements of decision, and judgments—but cannot take judicial notice of the truth of hearsay statements in decisions or court files, including pleadings, affidavits, testimony, or statements of fact.” (*People v. Harbolt* (1997) 61 Cal.App.4th 123, 126–127 [citations omitted]; Evid. Code §§ 452, 453.)

a. Defendant’s Request for Judicial Notice

In support of its demurrer, Defendant requests judicial notice of 10 Exhibits attached to Bruggisser’s Declaration (Exhibits A–G2), which are various court records from state and federal court

dockets related to Plaintiff's other actions. The request is **GRANTED** but the Court does not take judicial notice of the truth of hearsay statements in these files.

b. Plaintiff's Requests for Judicial Notice

In support of his Opposition to the demurrer, Plaintiff requests judicial notice of "Plaintiff's Habeas Corpus Petition, and all of its responses, filed in the Criminal Division of this Court under Case No. SCR-756294-1" as proof of his exhaustion of administrative remedies. However, Plaintiff is required to specify the part of the court file sought to be judicially noticed. (Cal. Rule of Court, 3.1306(c).) The request is **DENIED** as Plaintiff has not adequately identified the files he wishes the Court to judicially notice within the criminal case. Furthermore, the Court would only take judicial notice of the existence of the documents because the Court may not take judicial notice of the truth of hearsay statements in decisions or court files, including statements made in Plaintiff's petition for writ of habeas corpus. (*People v. Harbolt, supra*, 61 Cal.App.4th at 126–127.)

D. Jurisdictional Issues

a. Service of the FAC

The Court notes the service issues of the FAC. However, filing a demurrer to the FAC is a general appearance and "[a] defendant who makes a general appearance forfeits any objection to defective service." (See C.C.P. § 1014; *Fireman's Fund Ins. Co. v. Sparks Construction, Inc.* (2004) 114 Cal.App.4th 1135, 1146.) Furthermore, Defendant already appeared in the action by filing a demurrer to the original Complaint in this action. (*Fireman's Fund Ins. Co., supra*, 114 Cal.App.4th at 1148 ["A defendant who has actual knowledge of the action and who has submitted to the authority of the court should not be able to assert a violation of rules which exist only to bring about such knowledge and submission."].) Therefore, the demurrer is **OVERRULED** on the service issue.

However, the Court notes that while it understands that Plaintiff has chosen to represent himself in *propria persona*, he is held to the same standards as attorneys and must follow correct rules of procedure and is afforded the same, but no greater consideration than other litigants and attorneys. (*Stover v. Bruntz* (2017) 12 Cal.App.5th 19, 31.)

b. Small Claims

The Court is not persuaded by Defendant's small claims argument. Plaintiff seeks monetary damages of \$8,000,000.00 in the FAC, which is proper for the Court's unlimited jurisdiction. The demurrer is **OVERRULED** on this basis.

c. Exhaustion of Administrative Remedies

Under both state and federal law, an inmate must exhaust available administrative remedies. (*Wright v. State of California* (2004) 122 Cal.App.4th 659, 664.) Under state law, inmates are required to exhaust administrative remedies, even when seeking monetary damages unavailable in the administrative process. (*Id.* at 668.) The exhaustion requirement is jurisdictional, and a Court may not

hear a case before a litigant exhausts administrative remedies. (*Id.* at 664–665.) The purpose of the exhaustion requirement is to ensure orderly administration of the judicial system, prevent the chaos of a multiplicity of actions, prevent potentially conflicting decisions, and preserve the resources of the courts. (*Id.* at 670.)

Here, Plaintiff provides the Court with evidence in Opposition to the demurrer that he exhausted his administrative remedies. (See Plaintiff’s Request for Judicial Notice.) However, a petition for a writ of habeas corpus is *not* an administrative remedy, but rather, is a judicial remedy and the Court may not take notice of the hearsay statements contained in such filings. Plaintiff does not plead exhaustion of administrative remedies anywhere within the FAC. In other words, Plaintiff needs to fully exhaust the administrative complaint and associated appeal process before applying to this Court for relief. This is a necessary element of claims by prisoners under both state and federal law, and such failure divests this Court of jurisdiction. (See *Wright, supra*, 122 Cal.App.4th at 665–666.) On this basis, the Court cannot interfere in the interactions between Plaintiff and an administrative agency.

Thus, the demurrer is **SUSTAINED with leave to amend** on this basis as to all claims as there is some reasonable possibility Plaintiff can cure this defect. (*The Swahn Group, Inc., supra*, 183 Cal.App.4th at 852.)

E. Government Claims Act

Even though the Court does not have jurisdiction over the Complaint for Plaintiff’s failure to plead exhaustion of administrative remedies, the Court notes that Defendant fails to address the inapplicability of the Government Claims Act to non-tort claims, such as constitutional violations. (*Young v. County of Marin* (1987) 195 Cal.App.3d 863, 869.)

III. CONCLUSION

Defendant’s demurrer to the FAC is **SUSTAINED** with leave to amend. Plaintiff shall file an amended complaint no later than 60 calendar days from notice of entry of an order on this motion.

Defendant’s counsel 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).