



Superior Court of California County of San Benito

Tentative Decisions for May 1, 2024

Courtroom #1: Judge J. Omar Rodriguez

10:30 a.m.

CU-23-00071 Better San Benito vs. County of San Benito

Plaintiff's Motion to Enforce the Court's Prior Order is GRANTED in part. On October 17, 2023, this Court previously ordered Defendant County of San Benito ("Defendant") to produce all non-exempt records responsive to Plaintiff's Public Records Act request no later than December 22, 2023 and serve "code compliant" withholding and redaction logs on Plaintiff no later than January 10, 2024. Plaintiff now brings this motion to enforce the October 17, 2023 order claiming that Defendant's exemption and redaction logs omitted "any of the information needed to justify a claim of exemption or privilege. There is no description of the documents; there is no explanation for why the claimed privileges and exemptions apply to each document; there are thousands of emails on the logs (identifiable by the ".msg" ending to the file name) with no information on the sender and recipient(s); and there are thousands of claims of attorney-client privilege and work-product protection without any means to identify the attorney who provides the basis for the claimed exemption." (Plaintiff's Motion 6:15-20.) The Court agrees with Plaintiff and orders the following:

Within 30 days of entry of this order, Defendant is ordered to produce to Plaintiff a fully compliant withholding and redaction logs. The withholding and redaction logs must be specific enough to give Plaintiff a meaningful opportunity to contest the withholding of the documents and the court to determine whether the exemption applies.

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****Please contact Judicial Courtroom Assistant, Wendy Guerrero, at (831) 636-4057 x129 or wguerrero@sanbenitocourt.org with any objections or concerns.**

CU-23-00170 Zarate v. Estate of Lisa C. Biakanja

The Motion to be Relieved as Counsel is GRANTED as requested. Notice has been provided as required by law. The attorney shall be relieved as counsel of record effective upon the filing of the proof of service of the signed order upon the client.

CU-24-00026 In the Matter of San Benito High School District

The Demurrer filed by Respondent/Defendant San Benito County Board of Education (“the County Board”) is OVERRULED.

A demurrer generally serves to test the legal sufficiency of the complaint’s factual allegations. (*Genis v. Schainbaum* (2021) 66 Cal. App. 5th 1007, 1014.) It does not test the factual accuracy or truth of the facts alleged. The court must assume the truth of all properly pled allegations. The process of a demurrer does not serve to test the merits of the Plaintiff’s case. (*Tenet Health System Desert Inc. v. Blue Cross of CA.* (2016) 245 Cal App 4th 821, 834.) Because a demurrer only challenges the defects on the face of the complaint, it can only refer to matters outside the pleadings which are subject to judicial notice. (*Tenet, supra*, at 831.) When any ground for objection to a complaint...appears on the face thereof, or from any matter of which the court is required to or may take judicial notice, the objection on that ground may be taken by a demurrer to the pleading.” (Cal. Code Civ. Proc. §430.30 sub (a); *Levy v. Nielson* (2000) 83 Cal. App. 4th 1061, 1063.) For the purpose of demurrer, a judge must treat the demurrer as an admission of all material facts properly pled in the challenged pleading or that reasonably rise by implication, however improbable they are. (*Collins v. Thurmond* (2019) 41 Cal. App 5th 879, 894.) For the purpose of testing the sufficiency of a cause of action, contentions, deductions, or conclusions of law are not admitted as true, and must be ignored. (*Aubry v. Tri-City Hosp Dist.* (1992) 2 Cal. 4th 962, 966-67.) “California law emphasizes ultimate fact pleading (with some exceptions, notably for fraud and related torts) ‘in ordinary and concise language,’ and the test for adequacy is not absolute but ‘whether the pleading as a whole apprises the adversary of the factual basis of the claim.’” (*Lim v. The.TV Corp. Internat.* (2002) 99 Cal.App.4th 684, 690, citing 4 Witkin, Cal. Procedure (4th ed. 1997) Pleading, § 339, pp. 436, 438.)

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The San Benito High School District (“the District”) has standing to challenge the County Board’s decision to authorize a charter school proposing to operate within the District. Ordinarily a plaintiff must be “beneficially interested” to obtain a writ of mandate. (Cal. Code Civ. Proc. § 1086.) However, there is a recognized exception where the writ of mandate seeks to enforce a public interest. (*Venice Town Council, Inc. v. City of Los Angeles* (1996) 47 Cal. App.4th 1547, 1564.) ““(W)here a public right is involved, and the object of the writ of mandate is to procure enforcement of a public duty,’ a citizen is beneficially interested within the meaning of Code of Civil Procedure section 1086 if ‘he is interested in having the public duty enforced. [Citation.]’ This public interest exception ‘promotes the policy of guaranteeing citizens the opportunity to ensure that no governmental body impairs or defeats the purpose of legislation establishing a public right.’” (*Hector F. v. El Centro Elementary School Dist.* (2014) 227 Cal.App.4th 331, 339-340 citing *Doe v. Albany Unified School Dist.* (2010) 190 Cal.App.4th 668, 685.) Here, the District’s Petition seeks to compel the County Board’s compliance with the Charter Schools Act of 1992 and the Petition alleges that the County Board erred, and abused its discretion, in making certain findings and failed to make the requisite findings as required by Education Code section 47605.6. (Writ Petition ¶¶64-68.)

The District adequately plead a claim for mandamus relief. A writ of mandamus serves to compel the performance of a duty which the law specifically requires, and which existed at the time of the alleged failure to act. (*Forest Lawn Co. v. City Council of West Covina* (1966) 244 Cal. App. 2nd 343.) A writ of traditional mandamus under Code of Civil Procedure section 1085 is the method of compelling the performance of a legal, usually ministerial duty. Generally, a writ will lie where there is no plain, speedy, and adequate alternative remedy where the respondent has a duty to perform and the petitioner has a clear and beneficial right to performance, or to correct an abuse of discretion. (CCP §1085; *Pomona Police Officers’ Ass’n. v. City of Pomona* (1997) 58 Cal. App. 4th 578; *Kahn v. Los Angeles City Employees’ Ret. Syst.* (2010) 187 Cal. App. 4th 98, 105.) An abuse of discretion exists where the challenged action was “arbitrary, capricious, or (without) reasonable or rational basis.” (*American Coatings Assn. v. South Coast Air Quality Management Dist.* (2012) 54 Cal.4th 446, 460, quoting *Yamaha Corp. of America v. State Bd. of Equalization* (1998) 19 Cal.4th 1, 11.) Here, the District claims that the County Board both failed to adhere

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to its ministerial duty to strictly comply with the requirements of Education Code section 47605.6 and, alternatively,, that the County Board’s decision to approved he Polytechnic Academy countywide charter petition amounted to an abuse of discretion as it lacked any reasonable or rational basis. (Writ Petition, ¶¶ 64-68.)

CU-24-00055 Petition of Johnny Shamoun

The Petition is DENIED. Petitioner did not file a Proof of publication.

3:30 p.m.

CU-23-00087 Casarez v. Pacific Scientific Energetic Materials Company, LLC

The court has read the joint case management conference statement. The case management conference is continued to July 31, 2024 at 3:30 p.m.

CU-23-00165 Biakanja v. The State of California Dept. of Transportation

The court has read the case management conference statements. The case management conference is continued to July 10, 2024 at 10:30 a.m.

CU-23-00029 Petition of Francisco Carrillo Frutos, et al.

The Petition is DENIED. Petitioner did not file a Proof of publication.

CU-24-00007 Petition of Galen Mark Klassen

The Petition is APPROVED as requested.

PR-24-00030 Conservatorship of Vinh Thi Weisser

The hearing is continued to June 5, 2024 at 3:30 p.m. for the completion of the preliminary investigation.

END OF TENTATIVE DECISIONS