

**Tentative Rulings and Resolution Review Hearings
October 2, 2023
Department 3**

This Court does not follow the procedures described in Rules of Court, Rule 3.1308(a). Tentative rulings appear on the calendar outside the court department on the date of the hearing, pursuant to California Rule of Court, Rule 3.1308(b)(1). As a courtesy to counsel, the court also posts tentative rulings no less than 12 hours in advance of the time set for hearing. The rulings are posted on the court’s website (www.shasta.courts.ca.gov) and are available by clicking on the “Tentative Rulings” link. A party is not required to give notice to the Court or other parties of intent to appear to present argument.

In furtherance of compliance with the California Department of Public Health and CDC guidelines and recommendations, the Superior Court of California, County of Shasta is continuing to undertake precautionary measures to ensure the health and safety of the courthouse users. Persons are encouraged to make appearances telephonically, through CourtCall (888-882-6878; courtcall.com).

8:30 a.m. – Law & Motion

LEE, ET AL. VS. SUNDIAL LODGE, ET AL.

Case Number: 22CV-0199623

Tentative Ruling on Motion for Summary Judgment: The present motion is unopposed. Defendants County of Shasta and Dr. Karen Ramstrom (hereinafter “Defendants”) move for summary judgment pursuant to CCP § 437c on the ground there is no triable issue of fact.

Request for Judicial Notice: Defendants seek judicial notice of various official acts i.e., emergency proclamations. The requests are GRANTED.

Summary Judgment Standard: CCP § 437c(c) states a motion for summary judgment shall be granted if all the papers submitted show that there is no triable issue of material fact and that the moving party is entitled to judgment as a matter of law. “A 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. 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 the cause of action or a defense thereto....” CCP § 437c(p).

Merits of Motion: Defendant move for summary judgment on the following grounds:

1. that the action is barred by immunity provided by the Emergency Services Act;
2. there is no statutory basis for liability;
3. Defendants are immune from liability related to inspections of private property;
4. any act by Defendants was discretionary and they are immune under Gov’t Code § 820.2;
5. Plaintiffs cannot establish a duty of care.

Emergency Services Act: The Emergency Services Act (Gov't Code §§ 8550 et seq) empowers the Governor and local governments to proclaim a state or local emergency. Gov't Code § 8558(b) & (c). The Act specifically grants immunity from tort liability arising from the exercise of governmental functions in carrying out emergency services authorized under the Act. Gov't Code § 8655. Defendant has established that the State of California had declared a state of emergency due to the COVID-19 pandemic and put into place programs to temporarily lodge vulnerable homeless residents for their protection. Dr. Ramstrom, then the Shasta County Public Health Officer, also declared a local health emergency. Pursuant to the states of emergency, Dr. Ramstrom entered into a contract to house the homeless at Sundial Lodge. While a resident at Sundial Lodge, Decedent was injured in a fire and subsequently perished. Defendants have established their acts were taken as part of the Emergency Services Act and that the immunity provided by Gov't Code § 8655 would apply. The Court finds that Defendants have met their burden to establish there is no triable issue of fact. CCP § 437c(p). That burden shifts to Plaintiffs to show a triable issue of fact. *Id.* Plaintiffs did not oppose the motion and therefore they have not provided any evidence to establish a triable issue of fact. Summary judgment is appropriate on the grounds of the immunity provided by the Emergency Services Act.

Failure to Assert a Statutory Basis for Liability: Next Defendants contend that there is no statutory basis for liability against County of Shasta, a governmental entity, or its former employee Dr. Ramstrom. It is well established that there is no common law tort liability for public entities. Gov't Code 815(a). A public entity may only be held liable as provided by statute. *Id.* Therefore, if a plaintiff cannot establish a statutory basis for liability, the public entity is immune from liability as a matter of law. *Thompson v. City of Lake Elsinore* (1993) 18 Cal.App.4th 49, 63. Plaintiffs' discovery responses identified purported violations of two local government ordinances. No violated statutes were identified. Without any identified statute to form the basis of liability, Defendants have met their burden to show that there is no triable issue of fact. CCP § 437c(p). Again, the burden shifts to Plaintiffs but they have failed to oppose the motion. *Id.* Summary judgment is appropriate for a failure to assert a statutory basis of liability.

Inspection of Property: Plaintiffs also contend that Defendants are liable for their failure to properly inspect the Sundial Lodge; however, Defendants have provided that Gov't Code § 818.6 provides an additional statutory governmental immunity from any failure to inspect. Gov't Code Section 818.6 was "intended to grant absolute liability from the negligence inspection of private property to determine whether such property constitutes a hazard to health or safety." *Clayton v. City of Sunnyvale* (1976) 62 Cal.App.3d 666, 671. This absolute immunity applies whether the inspection is "called ministerial, discretionary or even voluntary." *Harshbarger v. City of Colton* (1988) 197 Cal.App.3d 1335, 1347. The immunity provided by Section 818.6 therefore applies to Plaintiffs' claims that Defendants had failed to properly inspect the property. Defendants have satisfied their burden to establish there is no triable issue of fact and Plaintiff has failed to provide any contrary evidence. CCP § 437c(p). Summary judgment is appropriate based on Defendants' statutory immunity related to the inspection of the Sundial Lodge.

Discretionary Acts: Defendants also argue that any act by Defendants were discretionary acts for which the law provides immunity. Public employees have broad immunity from any discretionary act. "Except as otherwise provided by statute, a public employee is not liable for an injury resulting from his act or omission where the act or omission was a result of the exercise of discretion vested in him, whether or not such discretion is abused." Gov't Code § 820.2. The only evidence before the Court is that Dr. Ramstrom's decision to enter into the occupancy agreement with Sundial was

discretionary and therefore, she and the County are immune under Gov't Code § 820.2. Defendants have met their burden that there is no triable issue of fact and Plaintiffs have provided no opposition. Summary judgment is granted on the grounds that Defendants acts were discretionary acts for which the law provided immunity.

Duty of Care: Plaintiffs' causes of action are based on the alleged negligence of the Defendants. Negligence requires: 1) the establishment of a duty to use due care; 2) a breach of that duty; 3) that the breach was the proximate cause of the injury; and 4) damages. *Castellon v. U.S. Bancorp* (2013) 220 Cal.App.4th 994, 998. The existence of a "duty of care" is a question of law which is be determined by the court, and which is "particularly amenable to resolution by summary judgment." *Peter W. v. San Francisco Unified School District* (1976) 60 Cal.3d 814, 822. Plaintiffs have not identified any duty of care that would appear to apply other than the allegations addressed above. For that reasons, Defendants have satisfied their burden to establish there is no triable issue of fact. CCP § 437c(p). Plaintiffs have failed to oppose the motion and therefore summary judgment is appropriate on this ground as well.

The motion is **GRANTED**. A proposed order was lodged with the Court and will be executed.

MCNEIL VS. CROMP, ET AL
Case Number: CVPO21-0198518

Tentative Ruling on Motion to Be Relieved as Counsel: The present motion is unopposed. April Stratte of Reiner, Slaughter & Frankel moves to be relieved as counsel for Plaintiff Katherine McNeil.

CRC Rule 3.1362 provides the requirements for a motion to be relieved as counsel. In particular it requires the use of specific mandatory Judicial Council forms and evidence supporting service of all forms, including the proposed order, on the clients as well as information related to why the motion has been brought instead of filing the substitution of attorney. CRC 3.1362(c) requires the supporting declaration to provide an explanation as to why the motion is necessary in place of a filing a consent to substitution under CCP § 248(1). Counsel's declarations and motion provide the requisite justification to be relieved, show proper service of all required documents, show that the motion was served at the client's last known address and identify the efforts to verify the address. The Court finds that the requirements of CRC 3.1362 have been satisfied.

The motion is **GRANTED**. A proposed order was lodged with the Court and will be executed.

IN RE: RAMIREZ
Case Number: 23CV-0202843

Tentative Ruling on Petition for Change of Name: Petitioner Jesse Ramirez seeks to change the name of his minor daughter. All procedural requirements of CCP §§ 1275 et. seq. have been satisfied. The Petition is **GRANTED**. All future dates will be vacated, and the file closed upon the processing of the Decree Changing Name.

9:00 a.m. – Review Hearings

ASHMORE, ET AL. VS. MITCHELL, ET AL.
Case Number: CVCV21-0198731

This matter is on calendar for review regarding status of settlement. This litigation settled at the mandatory settlement conference on July 19, 2023. No Notice of Settlement has been filed. No Request for Dismissal has been filed. **An appearance is necessary on today’s calendar to provide the Court with a status of the settlement.**

CITY OF ANDERSON VS. KRUMINS, ET. AL.
Case Number: 23CV-0203032

This matter is on calendar for review regarding status of the receivership. The Receiver’s Oath has been received. No information has been provided regarding the rehabilitation of the real property. **An appearance is necessary on today’s calendar to provide the Court with a status of the receivership and the rehabilitation of the real property.**

GENDREAU VS. JOHNSON
Case Number: CVPM22-0199417

This matter is on calendar for review regarding status of judgment/dismissal. A Conditional Notice of Settlement was filed on January 4, 2023 which indicates this matter would be dismissed no later than April 4, 2023. No dismissal is on file. Plaintiff has submitted a Status Conference Statement which indicates additional time is needed to resolve a worker’s compensation lien. In light of the foregoing, this matter is continued to **Monday, January 8, 2024, at 9:00 a.m. in Department 3.** No appearance is necessary on today’s calendar.

THE PEOPLE VS. \$35, 557.16 U.S. CURRENCY
Case Number: CVCV20-0195245

This matter will be heard in Department 8.

SHUFELBERGER, ET AL VS. PACIFICI, ET AL
Case Number: CVPO21-0197113

This matter is on calendar for review regarding status of the judgment/dismissal. The named Defendants have been dismissed. The Doe Defendants have not been dismissed. Plaintiff has submitted a Status Report which provides that the Does have been left as active parties to pursue UIM claims with the insurance. In light of the foregoing, this matter is continued to **Monday, May 6, 2024, at 9:00 a.m. in Department 3.** No appearance is necessary on today’s calendar.

IN RE ROBERTS
Case Number: 23PB-0031970

This matter is on calendar for review to confirm deposit of funds into a blocked account. No

“Receipt and Acknowledgment of Order for the Deposit of Money Into Blocked Account” has been filed. **The parties are ordered to appear to provide the Court with a status of the deposit of the funds into a blocked account.**

IN RE ROBERTS

Case Number: 23PB-0031972

This matter is on calendar for review to confirm deposit of funds into a blocked account. No “Receipt and Acknowledgment of Order for the Deposit of Money Into Blocked Account” has been filed. **The parties are ordered to appear to provide the Court with a status of the deposit of the funds into a blocked account.**