

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN MATEO

Special Set Calendar

Judge: HONORABLE JOSEPH C. SCOTT
Department 25

400 County Center, Redwood City
Courtroom 2G

Tuesday, January 26, 2021

IF YOU INTEND TO APPEAR ON ANY CASE ON THIS CALENDAR
YOU MUST DO THE FOLLOWING:

1. YOU MUST CALL (650) 261-5125 BEFORE 4:00 P.M. TO
INFORM THE COURT OF YOUR INTENT TO APPEAR.
2. You must give notice before 4:00 P.M. to all
parties of your intent to appear pursuant to
California Rules of Court 3.1308(a)(1).

Failure to do both items 1 and 2 will result in no
oral presentation.

N.B. Notifying CourtCall with your intent to appear is
not an alternative to notifying the court.

All Counsel are reminded to comply with California
Rule of Court 3.1110. The Court will expect all
exhibits to be tabbed accordingly.

Case

Title / Nature of Case

9:00

LINE: 1

[SANTA CLARA COUNTY CASE]

19CV352777 ZOSIMA SUSIE A. ANDRADA VS. VIVIAN QUE-AZCONA, ET AL.

ZOSIMA SUSIE A. ANDRADA
JUDGE JILL FANNIN

PRO/PER
SHARON M. NAGLE

DEMURRER TO SECOND AMENDED COMPLAINT BY JUDGE JILL FANNIN, JUDGE RONNI MACLAREN, JUDGE RONALD QUIDACHAY AND COMMISSIONER JONATHAN FATTARSI
TENTATIVE RULING:

The Demurrer to Plaintiff's Second Amended Complaint, filed by Defendants Jill Fannin, Ronni Maclaren, Ronald Quidachay, and Jonathan Fattarsi, is SUSTAINED WITHOUT LEAVE TO AMEND.

The Second Amended Complaint fails to allege compliance with the Government Claims Act. (Gov't Code §§ 810 et seq.) Failure to allege facts demonstrating or excusing compliance with the requirement subjects a complaint to general demurrer for failure to state a cause of action. (*State of California v. Superior Court* (2004) 32 Cal. 4th 1234, 1240–41.)

Further, the Second Amended Complaint alleges that the basis for any claims against the demurring Defendants arises from those Defendants' official acts in their roles as state court judges and commissioner. Therefore, the complaint on its face shows that judicial immunity precludes the claims as against the demurring Defendants. (*Howard v. Drapkin* (1990) 222 Cal.App.3d 843, 851–52 [judicial immunity bars civil actions against judges for acts performed in exercise of their judicial functions].)

To the extent the Second Amended Complaint purports to allege a claim for civil conspiracy or for Penal Code violations, the pleading fails to allege facts to state a cause of action.

Defendants' argument that Plaintiff added causes of action and new defendants without leave of court could be a ground for a motion to strike. The same argument does not, however, support a demurrer.

Although leave to amend after a Second Amended Complaint is often granted, Plaintiff has not demonstrated any reasonable likelihood of amending her complaint in a manner that addresses the above-cited deficiencies. She has failed to make this showing in opposition to the present demurrer, as well as the demurrers of other Defendants in this action. For this reason, Demurrer to the complaint is sustained without leave to amend.

If the tentative ruling is uncontested, it shall become the order of the Court. Thereafter, counsel for Defendants shall prepare a written order consistent with the Court's ruling for the Court's signature, pursuant to California Rules of Court, Rule 3.1312, and provide written notice of the ruling to all parties who have appeared in the action, as required by law and the California Rules of Court.



POSTED: 3:00 PM