

PROPOSED TENTATIVE

On April 1, 2026, the court tentatively denied plaintiff's request to change the date stamped on the complaint from December 15, 2025 to November 21, 2025, for reasons explained in the prior order. Essentially, the court found that the December 15, 2025, filing date comported with the electronic filing rules pursuant to California Rules of Court, rules 2.253, 2.259, Code of Civil Procedure section 1016.6, subdivision (b)(6), and Santa Barbara County Superior Court Local Rule 1012, and the date should not be changed.

At the conclusion of the tentative, the court made the following observations:

“Plaintiffs are not without a possible remedy if they are concerned about the statute of limitations period for the negligence cause of action, although more work is necessary. As noted above, recent amendments to Code of Civil Procedure section 1010.6 provide that the date the clerk's receipt of the electronic complaint and the notice of the clerk's rejection, plus one day, toll the applicable statute of limitations period. It is unclear on the record before the court what is the accumulated tolling time between November 21, 2025, and December 15, 2025 (i.e., depending on the days between receipt and notice of rejection, plus 1 day, for each rejection, on an aggregate basis), so no ruling is made thereon. Nothing in this order should be seen as resolving this issue.”

The court also added the following in footnote 2 of the same order to underscore these points:

“On January 1, 2021, the Legislature amended Code of Civil Procedure section 1010.6, subdivision (b)(4), as follows: ‘If the clerk of the court does not file a complaint . . . because the complaint . . . does not comply with applicable filing requirements or the required filing fee has not been paid, any statute of limitations applicable to the causes of action alleged in the complaint or cross complaint shall be tolled for the period beginning on the date on which the court received the document and as shown on the confirmation of receipt described in subparagraph (A), through the later of either the date on which the clerk of the court sent the notice of rejection described in subparagraph (C) or the date on which the electronic filing service provider or electronic filing manager sent the notice of rejection as described in subparagraph (D), plus one additional day if the complaint or cross complaint is subsequently submitted in a form that corrects the errors which caused the document to be rejected. The party filing the complaint or cross complaint shall not make any change to the complaint or cross complaint other than those required to correct the errors which caused the document to be rejected.’ ”

Plaintiff's counsel seemed to read the court's tentative order as an invitation to file supplemental briefing to obtain alternative rulings. On April 1, 2026, counsel filed a declaration, with exhibits, addressing the timeline of the operative pleadings between November 21, 2025

and December 15, 2025. Plaintiff on the same day filed a supplemental declaration, arguing the court should deem the November 26, 2025, filing date as dispositive, because, according to counsel, there were no changes of any kind to the complaint between November 26, 2025, and December 15, 2025. (§ 16 of Mr. Peacock’s Supplemental Declaration.)

The court once again rejects any attempt by plaintiff to alter the December 15, 2025 date, for the same reasons identified and articulated in the earlier order. December 15, 2025, was determined to be the appropriate filing date under the rules identified in the court’s original order. That remains true at this time.

Additionally, the court is in no position at this time to determine whether the statute of limitations period has been tolled per Code of Civil Procedure section 1010.6, for two reasons. (See, e.g., *Dobarro v. Kim* (2025) 116 Cal.App.5th 158, 162 [“When a court rejects a complaint or a cross complaint for electronic filing, Code Civ. Proc. section 1010.6 allows tolling of ‘any statute of limitations applicable to the causes of action alleged in the complaint or cross complaint,’ citing Code Civ. Proc., § 1010.6, subd. (e)(4)(E)].) First, plaintiff’s request amounts to an advisory opinion, unmoored to an actual controversy about whether the complaint is barred under any relevant statute of limitations provision. (*Dow v. Lassen Irrigation Co.* (2022) 75 Cal.App.5th 482, 492 [“courts do not render advisory opinions on hypothetical future disputes”].) The issue, in other words (as of this writing), is not ripe. (See *Vandermost v. Bowen* (2012) 53 Cal.4th 421, 452 [“ ‘The ripeness requirement, a branch of the doctrine of justiciability, prevents courts from issuing purely advisory opinions.’ ”].)

Second, a statute of limitations claim is considered an affirmative defense. (*Universal Home Improvement, Inc. v. Robertson* (2020) 51 Cal.App.5th 116, 127–128 [the statute of limitations is considered an affirmative defense that can be waived].) It is settled, of course, that a statute of limitations bar can be raised via demurrer, but only if 1) the defect clearly and affirmatively appears on the face of the complaint (it is not enough that the complaint shows that the action may be barred) (*Committee For Green Foothills v. Santa Clara County Bd. of Supervisors* (2020) 48 Cal.4th 32, 42); or 2) judicially noticed documents show as a matter of law the action is barred. (*Arroyo v. Plosay* (2014) 225 Cal.App.4th 279, 289 [“Only when the facts alleged, or matters subject to judicial notice, demonstrate as a matter of law that the statute of limitations has expired can a demurrer be sustained on that ground”].) Of course, a statute of limitations defense can be raised in an answer. (See *Save Agoura Cornell Knoll v. City of Agoura Hills* (2020) 46 Cal.App.5th 665, 681 [“Because a statute of limitations is an affirmative defense, it is forfeited if it is not properly asserted in a general demurrer or pleaded in an answer”].) Doreen Eyman, the only named defendant (and now represented by counsel), filed an answer on April 21, 2026, raising, inter alia, a statute of limitations affirmative defense. Once defendant pleads this affirmative defense, it is defendant’s burden to prove each element thereof. (*Jogani v. Jogani* (2026) 118 Cal.App.5th 823, 858, fn. 7; see *Samuels v. Mix* (1999) 22 Cal.4th

1, 10 [“a defendant must prove the facts necessary to enjoy the benefit of a statute of limitations” defense]; *Kaiser Foundation Hospitals v. Workers’ Comp. Appeals Bd.* (1985) 39 Cal.3d 57, 67, fn. 8 [“The running of the statute of limitations is an affirmative defense . . . and the burden of proving it has run, therefore, is on the party opposing the claim”]; see also *Pollock v. Tri-Modal Distribution Services, Inc.* (2021) 11 Cal.5th 918, 945.) It would be inappropriate for the court to preclude defendant from an attempt to prove the defense as raised in her answer by preemptively making a pretrial, factual determination on any part of the defense here (at least at this time). (See, e.g., *Swift v. Superior Court* (2009) 172 Cal.App.4th 878, 883 [most pretrial motions are decided without a determination of contested facts related to the merits of the case].) For example, as provided in Code of Civil Procedure section 597, when “the answer pleads that the action is barred by the statute of limitations . . . the court may, either upon its own motion or upon the motion of any party, **proceed to the trial** of the special defense . . . before trial of any other issues in the case . . .” (Emphasis added; see *Mayberry v. Coca Cola Bottling Co of Sacramento* (1966) 244 Cal.App.2d 350, 354-355 [summary judgment or a special trial under Code Civ. Proc., section 597 would have been a more effective method of dealing with the statute of limitations issue raised by defendant in the answer].) The court cannot make a freestanding determination as requested.

In summary, the court denies plaintiff’s motion to correct the filing date on the complaint, as it did previously. December 15, 2025, date remains the appropriate filing date. The court rejects any request by plaintiff to address whether tolling applies per Code of Civil Procedure section 1010.6. These issues will have to be addressed/resolved either at summary judgment or at trial.