
PARTIES/ATTORNEYS

Plaintiff	Julie Baker	Self-Represented
Defendant	Central Coast Water Authority	Jacobson Urbanic, L.L.P. Joseph T. Urbanic, Esq. Patrick M. Brady, Esq.

TENTATIVE RULING

For all the reasons discussed below, the court sustains the demurrer with leave to amend. The second amended complaint fails to allege compliance with the Government Claims Act.

There does not seem to be a reasonable possibility to cure the defect. The court nevertheless recognizes the very liberal policy in permitting amendments, not only where a complaint is defective in form, but also where substantive defects are apparent: “Liberality in permitting amendment is the rule, if a fair opportunity to correct any defect has not been given.” (*Angie M. v. Sup.Ct. (Hiemstra)* (1995) 37 Cal.App.4th 1217, 1227; *Stevens v. Sup.Ct. (API Ins. Services, Inc.)* (1999) 75 Cal.App.4th 594, 601.) The court will thus allow leave to amend.

The operative pleading is the second amended complaint filed on January 2, 2024. With exhibits, it is 236 pages long. It is not a model of clarity. (See Code Civ. Proc. § 425.10; *Rappleyea v. Campbell* (1994) 8 Cal.4th 975, 981 [“Except when a particular rule provides otherwise, the rules of civil procedure must apply equally to parties represented by counsel and those who forgo attorney representation.”].)

From what can be gleaned, plaintiff Julie Baker (Baker) was employed at defendant Central Coast Water Authority (CCWA) in Buellton from July 1, 2003 through December 10, 2021.

In August, 2021, she spoke to maintenance superintendent Todd York regarding unusual file activity running in the background of her workstation,

indicating she was being monitored by an outside agency outside of the workplace. Baker was placed on administrative leave from August 17, 2021 to August 20, 2021 because she was disruptive to employees.

On November 4, 2021, Baker visited the offices of Brownstein Hyatt Farber Schreck to speak with attorney Stephanie Hastings regarding malicious activities on Baker's workstation. Ms. Hastings was out of the office, so Baker left her a letter. On November 5, 2021, Baker was put on administrative leave and was terminated via letter on December 10, 2021 for contacting a vendor (Hastings) about monitoring.

The defamation cause of action appears to be based on a series of escalating events involving Lisa Watkins.

CCWA filed its demurrer on April 11, 2024. Baker's opposition was timely filed on April 26, 2024.

1. Government Claims Act

In general, no suit for damages may be maintained against a governmental entity unless a formal claim has been presented to such entity and has been rejected (or is deemed rejected by the passage of time). (Gov.¹ C. §§ 912.4, 945.4; see *Munoz v. State of Calif.* (1995) 33 Cal.App.4th 1767, 1776.) The SAC is devoid of any allegations that Baker has complied with this requirement. Failure to allege facts in the complaint demonstrating compliance with the prelitigation governmental claims presentation requirements subjects the complaint to a general demurrer. (*State of Calif. v. Sup.Ct. (Bodde)* (2004) 32 Cal.4th 1234, 1239.)

Baker argues that her claim is excluded from the claim filing requirement section 905 subdivision (j), which excepts “[c]laims arising under any provision of the Unemployment Insurance Code, including, but not limited to, claims for money or benefits, or for refunds or credits of employer or worker contributions, penalties, or interest, or for refunds to workers of deductions from wages in excess of the amount prescribed.” Baker points out that she, in fact, filed an appeal to the California Unemployment Insurance Appeals Board regarding this employment, although she does not specify the nature of that appeal.

However, when a statute provides specific examples of a general term that all share a unifying trait, the examples often serve to cabin the contextual meaning of the general term. (*Ornelas v. Randolph* (1993) 4 Cal.4th 1095, 1101 [“when a statute contains a list or catalogue of items, a court should determine the meaning of each by reference to the others, giving preference to an interpretation that uniformly treats items similar in nature and scope”].) The express examples from

¹ All future references are to the Government Code, unless stated otherwise.

section 905 subdivision (j) specifies the types of claims arising under the Unemployment Insurance Code that are exempted. None of the listed items include wrongful termination or defamation. Put simply, the Unemployment Insurance Code does not provide the law that creates either a wrongful termination or defamation cause of action. The court finds that neither of the causes of action alleged—wrongful termination and defamation—arise under any provision of the Unemployment Insurance Code. Therefore, they are not exempted from the claims filing requirement by section 905 subdivision (j).

Moreover, Government Code section 911.2 subdivision (a) provides a one-year statute of limitations for presenting a government claim (other than a claim for death or for personal injury). The time limit runs from the date the claimant's right to sue arises. This is the date upon which the statute of limitations would begin to run if there were no claim-filing requirement. (See *Shirk v. Vista Unified School Dist.* (2007) 42 Cal.4th 201, 209 (superseded by statute as stated in *Rubenstein v. Doe No. 1* (2017) 3 Cal.5th 903, 905-906); *Willis v. City of Carlsbad* (2020) 48 Cal.App.5th 1104, 1118.) Baker does not provide any law to the contrary. She simply asserts: “Plaintiff was terminated 12-10-21. Plaintiff filed original complaint 12-7-23 (within the 2-year statutory timeframe).” As the statute of limitations is one year, plaintiff undermines her own argument with this observation.

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This conclusion renders moot the remaining issues raised by demurrer. Nevertheless, the court makes the following observations so that any amended pleading can fully address all deficiencies.

2. Wrongful Termination

CCWA argues that the cause of action for wrongful termination is uncertain. Demurrers for uncertainty under Code of Civil Procedure section 430.10, subdivision (e) are disfavored. (*Lickiss v. Financial Industry Regulatory Authority* (2012) 208 Cal.App.4th 1125, 1135.) “A demurrer for uncertainty is strictly construed, even where a complaint is in some respects uncertain, because ambiguities can be clarified under modern discovery procedures.” (*Khoury v. Maly's of California, Inc.* (1993) 14 Cal.App.4th 612, 616.) Nevertheless, a complaint must be sufficiently certain to permit a defendant to meaningfully respond. (See *Williams v. Beechnut Nutrition Corp.* (1986) 185 Cal.App.3d 135, 139, fn. 2.) Whether a

complaint accomplishes this depends on the substance of the factual allegations, not labels of the cause of action; if “the complaint contains substantive factual allegations sufficiently apprising [the] defendant of the issues it is being asked to meet, a demurrer for uncertainty should be overruled or plaintiff given leave to amend.” (*Ibid.*)

CCWA points out that “Plaintiff vaguely cites to Labor Code § 1102.5² and a potential violation of the Computer Fraud and Abuse Act (“CFAA”)” in her SAC. (See Demurrer, p. 3, ll. 5-6.) It argues that because the allegations are both conclusory and the attachments unintelligible, it cannot identify the legal authority for plaintiff’s claim. But it appears to have done just that. Although the SAC suffers from inartful and sloppy drafting as well as the inclusion of extraneous material, the ambiguities identified by CCWA can be clarified in discovery. Because the CCWA has not filed a general demurrer for failure to state a cause of action, the court makes no ruling on whether plaintiff has alleged facts sufficient to constitute a cause of action.

3. Defamation

CCWA argues that plaintiff has failed to state sufficient facts to constitute a cause of action, is uncertain, and is barred by the statute of limitations. The statute of limitations for defamation is one year. (Civ. Pro. § 340(c).) Here, the communications alleged in plaintiff’s SAC to support her defamation theory took place in February of 2021 which is close to three years prior to the filing of the Complaint and therefore outside the limitation period.³

In opposition, Baker points to her meet and confer letter, in which she argues that Watkins’ statement to the EDD on February 8, 2022 that plaintiff was “making false statements” were defamatory. Even if this allegation were found in the SAC, it is also outside this limitation period. Any amended pleading must account for this limitation.⁴

² This statute “provides whistleblower protections to employees who disclose wrongdoing to authorities.” (*Lawson v. PPG Architectural Finishes, Inc.* (2022) 12 Cal.5th 703, 709.) “As relevant here, section 1102.5 prohibits an employer from retaliating against an employee for sharing information the employee ‘has reasonable cause to believe ... discloses a violation of state or federal statute’ or of ‘a local, state, or federal rule or regulation’ with a government agency, with a person with authority over the employee, or with another employee who has authority to investigate or correct the violation.” (*Ibid.*)

³ In any event, Baker identifies an allegation in the SAC alleging that Watkins stated plaintiff was unprofessional in an email to others. For Baker to recover, the statement must have been a statement of fact, not opinion. (CACI 1707.) It’s unclear this allegation qualifies as a provable fact.