Tentative Ruling:

The request for judicial notice is granted.

The demurrer to the first cause of action is overruled. To the extent a cease-and-desist is necessary, the court find that the February 11, 2025, email is sufficient for pleading purposes. The court is not convinced that allegations that the Board received evidence or testimony from a percipient witness is required at the pleading stage.

The demurrer to the second cause of action is sustained pursuant to Government Code § 54960.2, subd. (c)(3). To the extent petitioner seeks an order compel the District to cure the alleged violations of the Brown Act by publicly and accurately disclosing the actions it took at the January 24th Board meeting, she must identify the legal authority permitting her to do so. Leave to amend will be permitted if the petitioner convinces the court that leave to amend is appropriate.

The demurrer to the third cause of action is overruled on the basis that plaintiff has adequately alleged the theory that the February 14, 2025, meeting was improperly agendized. The court is satisfied that the February 16, 2025 letter can be construed as a cease-and-desist letter and that the violation is otherwise adequately pled.

The parties are instructed to appear at the hearing for oral argument. Appearance by Zoom Videoconference is optional and does not require the filing of Judicial Council form RA-010, Notice of Remote Appearance. (See Remote Appearance (Zoom) Information | Superior Court of California | County of Santa Barbara.)

Background:

On November 11, 2024, petitioner, Dr. Jacqueline Loew, Dean of Students of Santa Maria Joint Union High School District, submitted a formal complaint to superintendent Antonio Garcia alleging harassment and discrimination against herself and students by Dr. Paul Robinson, and retaliation by Robinson, Sal Reynoso, Dr. Krista Herrera, and Kevin Pratt.

On January 21, 2025, petitioner spoke out against superintendent Antonio Garcia during a public comment session of a meeting of the Santa Maria Joint Union High School District Board of Trustees.[1]

On January 22, 2025, petitioner was contacted by third-party investigator Katherine Eppright regarding her complaints. Petitioner alleges that Ms. Eppright informed her that she was "adding" this complaint to the scope of her investigation. Two days later, on January 24, 2025, petitioner was advised that it had commenced an investigation of the allegations made at the January 21, 2025, meeting, and acknowledged the ongoing

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[1] According to Exhibit S, petitioner asserted that he targeted and discriminated against students based on race, ethnicity, and class; that he allowed a hostile work environment to be created against Dr. Loew based on her gender, race, and ethnicity; that her contract had been breached; that superintendent Garcia mismanaged employees; that she was improperly demoted; that her the complaint process was handled improperly; that she was retaliated against; that the mishandling of her complaint resulted in wasted resources; gross mismanagement; failure to comply with the California Professional Standards for Education Leaders

investigation into the November 11, 2024, complaint by Kathryn Eppright of Andre, Morris & Buttery.

Also on January 24, 2025, the Santa Maria Joint Union High School District Board of Trustees held a special meeting at which it placed the following item on the agenda: "Public Employee Appointment/Discipline/Dismissal /Release (Government Code Section 54957)," and "Conference with Legal Counsel regarding Anticipated Litigation."

Petitioner was placed on paid administrative leave on January 27, 2025, pending further review of allegations that she had shared confidential student, employee, and District information with unauthorized third parties. (Petition, Exh. A.)[2]

Petitioner asserts that, considering this sequence of events, the Board must have either considered charges or complaints against her during the closed session on January 24, 2025, <u>or</u> engaged in communications outside of the public meeting to discuss and decide to place her on leave. She contends that either way, Brown Act violations occurred. Assuming the decision was made at the January 24, 2025 Board meeting, the Board violated the Brown Act by failing to provide her with twenty-four (24) written notice, failing to report all actions taken at the meeting. Alternatively, assuming the action was the result of deliberations outside the meeting, the Board violated the Brown Act prohibition on serial meetings. She asserts three causes of action and seeks writ, declaratory, and injunctive relief, as is authorized by Government Code[3] section 54960.

Respondents demur. Opposition and reply have been filed.

<u>Request for Judicial Notice</u>

Respondents request the court take judicial notice of the following documents:

- The Stipulation and Order to Stay Judicial Proceedings, entered by the Court on September 30, 2025, and as reflected on the Court's docket on the same date, a true and correct copy of which is attached hereto as Exhibit "1" and incorporated by reference;
- The publicly accessible Agenda for the Board's November 4, 2025, meeting, a true and correct copy of which is attached hereto as Exhibit "2" and incorporated by reference;
- The publicly available Minutes from the Board's November 4, 2025, meeting, a true and correct copy of which is attached hereto as Exhibit "3" and incorporated by reference;
- Petitioner's original Verified Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief filed in this matter on April 1, 2025, accessible in the Court's file; and
- Petitioner's FAP, filed in this matter on December 12, 2025, accessible in the Court's file.

[2] The first amended petition includes 19 exhibits. None are bookmarked, as is required by the California Rules of Court, rule 3.1110(f)(4.)
[3] All subsequent statutory references are to the Government Code unless stated otherwise.

There is no opposition to this request. It is granted.

Procedure

The public policy furthered by the Brown Act is stated in § 54950, which provides:

> In enacting this chapter, the Legislature finds and declares that the public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly.
>
> The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.

In furtherance of this public policy, the Brown Act goes on to require meetings of legislative bodies of local public agencies to be open and public. As a result, the Act also provides, "[a] majority of the members of a legislative body shall not, outside a meeting authorized by this chapter, use a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item of business that is within the subject matter jurisdiction of the legislative body." (§ 54952.2, subd. (b)(1).) These types of communications are commonly referred to as "serial" or "seriatim" meetings. (*Id.*; *Stockton Newspapers, Inc. v. Redevelopment Agency* (1985) 171 Cal.App.3d 95; *see also* 65 Ops. Cal. Atty. Gen. 63 (1982) and 63 Ops. Cal. Atty. Gen. 820 (1980).)

In that regard, § 54953, subdivision (a), provides: "All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter." Accordingly, "[n]o legislative body shall take action by secret ballot, whether preliminary or final," and "[t]he legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action." (§ 54953, subd. (c)(1), (2).)

The procedural mechanisms to enforce Brown Act violations are contained in sections 54960, 54960.1 and 54960.2. Section 54960, subdivision (a), provides in relevant part: "[A]ny interested person may commence an action by mandamus, injunction, or declaratory relief … to determine the applicability of [the Brown Act] to ongoing actions or threatened future actions of the legislative body, or to determine the applicability of [the Brown Act] to past actions of the legislative body, subject to Section 54960.2." This is the broad enforcement statute.

Section 54960.1 generally applies when a legislative body has already taken an action (usually a vote or decision), and the action was taken in violation of certain specified Brown Act provisions, such as agenda posting, open meeting requirements, special meeting notice requirements, etc. The statute provides that the action taken is "null and void under this section" and permits an interested person to obtain that relief by the mechanisms listed in 54960. Before filing suit pursuant to this section, the challenger must send a cure-and-correct demand to the agency to give the agency an opportunity to fix the violation itself. If it refuses, suit may be filed. Notably, this section applis only to specified code sections, which do not include the section petitioner alleges to be violated.

Section 54960.2 authorizes an interested person to bring an action by the mechanisms authorized in 54960 to enforce the requirements of the Brown Act for violations of past acts, even if they did not result in an action that must be nullified. Before filing suit under this provision, the interested person must send a cease-and-desist letter to the entity, among other things. The agency can avoid litigation by issuing an "unconditional commitment" promising not to repeat the challenged conduct. If it does so, the lawsuit generally cannot proceed.

California Code of Civil Procedure section 1089 authorizes a respondent to file a demurrer to a writ petition, providing that "[o]n the date for return of the alternative writ, or on which the application for the writ is noticed," the party served "may make a return by demurrer, verified answer or both." (Code Civ. Proc. § 1089.)

<u>Merits</u>

1. 1st Cause of Action

In this cause of action, petitioner alleges that at the January 24, 2025 meeting, the Board approved placing her on paid administrative leave, in response to specific charges or complaints against her, without providing her with 24-hour written notice. The substantive statute describing this violation is section 54957, which contains its own nullification procedure (e.g., does not rely on section 54960.1). Both parties seem to concede that the procedural predicates of section 54960.2 apply (e.g. the cease-and-desist letter procedure), and the court will accept that proposition.[4]

A. Cease-and-Desist Letter

Respondent asserts that petitioner failed to satisfy the prerequisite of submitting a cease-and-desist letter to petitioner. According to section 54960.2, subdivision (a), a "person alleging a violation of this chapter [must] first submit a cease and desist letter . . . clearly describing the past action of the legislative body and nature of the alleged violation." Respondent argues that the letter submitted on February 16, 2025, and attached the FAP as Exhibit H is not a cease-and-desist letter, nor is the August 18, 2025 letter, which is attached to the FAP as Exhibit T.[5]

Petitioner points out that her FAP also includes an allegation that she sent an email to the Board on February 11, 2025 that states:

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[4] It's unclear how the cease-and-desist procedure would be helpful in this instance where the alleged violation is completed. A commitment from the Board not to repeat such violations in the future would not impact the action already taken.

[5] The court will discuss the February 16, 2025 letter later in this ruling.

> “Per GOV § 54957, "As a condition to holding a closed session on specific complaints or charges brought against an employee by another person or employee, the employee shall be given written notice of his or her right to have the complaints or charges heard in an open session rather than a closed session, which notice shall be delivered to the employee personally or by mail at least 24 hours before the time for holding the session. If notice is not given, any disciplinary or other action taken by the legislative body against the employee based on the specific complaints or charges in the closed session shall be null and void." This is under the Brown Act.
>
> It appears that my rights have been violated already as the district brought a charge or complaint to the board on or around January 24th, 2025 and led to my placement on paid administrative leave.
>
> Furthermore, I am preemptively notifying you that any and all complaints or charges brought against me must be discussed in open session, as is my right. To be clear, I do not consent to any complaints or charges brought against me to be discussed in any closed session. And the district must notify me with a proper 24 hr notice before they are to hold a session."
>
> (FAP, ¶ 46.)

Respondents do not address the alleged February 11, 2025, email in its reply. The court finds this email to satisfy the requirement for pleading purposes.

B. Charges and Complaints

All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter. (§ 54953, subd. (a).) However, this chapter does not prevent the legislative body of a local agency from holding closed sessions during a regular or special meeting to consider the appointment, employment, evaluation of performance, discipline, or dismissal of a public employee or to hear complaints or charges brought against the employee by another person or employee unless the employee requests a public session. (§ 54957(b)(1).) Section 54957, subdivision (b)(2) states:

> “As a condition to holding a closed session on specific complaints or charges brought against an employee by another person or employee, the employee shall be given written notice of their right to have the complaints or charges heard in an open session rather than a closed session, which notice shall be delivered to the employee personally or by mail at least 24 hours before the time for holding the session. If notice is not given, any disciplinary or other action taken by the legislative body against the employee based on the specific complaints or charges in the closed session shall be null and void.”

Respondents argue that the petition fails to adequately allege the January 24th meeting constituted a meeting to consider a “complaint or charge,” thus requiring notice, as opposed to a meeting to consider a personnel decision for which notice is not required.

Prior decisions are helpful in determining the contours of what constitutes a "complaint or charge." In *Bell v. Vista Unified School District* (2000) 82 Cal. App. 4th 672, 683, the Court of Appeal, relying on prior case law and a California Attorney General opinion, defined "[b]oth 'complaint' and 'charges [as] connot[ing] an accusation, something which is 'brought against' an individual." (quoting 78 Ops. Cal. Atty. Gen. 218, 223 (1995).) In *Bell*, a school board met to hear a report made by a separate administrative body concerning an employee. (*Id*. at 681.) The court held that presentment of the separate administrative body's findings to the school board constituted an accusation (essentially, an indictment) requiring notice under the Brown Act. (*Id*.)

A more recent opinion, *Ricasa v. Office of Administrative Hearings* (2018) 31 Cal.App.5th 262, 276, suggests that section 54957's "complaints or charges" provision is only triggered when a board conducts a hearing in which witnesses are heard and evidence presented. *Ricasa* distinguished *Bell* because the board in *Bell* essentially heard evidence from a prior administrative hearing and, therefore, met to conduct an evidentiary hearing. (*Id*. at 279.) In contrast to *Bell*, the board in *Ricasa* met to initiate the process of demoting a counselor from an administrative position on the basis of a guilty plea that the counselor had already entered into. (*Id*. at 277.) Put another way, "[t]he Board did not resolve a factual dispute that required a response from [the counselor], but instead debated whether the undisputed facts warranted discipline." (*Id*. at 279.) The *Ricasa* court held that this meeting did not violate the Brown Act because the "Board did not receive evidence or testimony from any percipient witness, nor did it hear from a third party about any claims against [the counselor]." (*Id*. at 277.)

The Board argues that because petitioner did not *allege* that the Board received evidence or testimony from any percipient witness, she has not alleged sufficient facts to support the cause of action. But it points to no cases that suggest such level of detail is required *at the pleading stage*. The evidence may ultimately show that the Board did not receive evidence or testimony, and it may be the case that the discussion was merely a personnel discussion, but for purposes of this demurrer, it is not clear that petitioner fails to plead sufficient facts to support her claim.

The demurrer is overruled as the first cause of action.

2. 2nd Cause of Action

Section 54953, subd. (d)(2) provides that the legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

The FAP alleges that the Board violated this section by not reporting "that it discussed and decided to place Dr. Jacqueline Loew on administrative leave pending an investigation of specific charges or complaints brought against her on January 24th, 2025…." (FAP ¶ 49.) Petitioner further asserts that the Board did not report it retained a private investigator regarding an alleged whistleblower complaint. (FAP ¶ 51.)

Respondent argues this cause of action is moot because it formally responded to petitioner's cease-and-desist letter identifying this claim with an unconditional commitment letter. (RJN ¶¶ 2-3, Ex. 2 at 6.) Petitioner argues that "the main focus of the Petition is not to prevent the District from committing the same violations of law as it did here. Rather, Petitioner specifically seeks an obtain a judicial order that would compel the District to cure it (sic) violations of the Brown Act by publicly and accurately disclosing the actions it took at the January 24th Board meeting. Because this remedy remains viable, the Second Cause of Action is not moot." (Opposition, pp. 12:26 – 13:2.)

The law is as follows: "An action shall not be commenced to determine the applicability of this chapter to any past action of the legislative body for which the legislative body has provided an unconditional commitment [to cease, desist from, and not repeat the past action that is alleged to violate this chapter]. During any action seeking a judicial determination regarding the applicability of this chapter to any past action of the legislative body pursuant to subdivision (a), if the court determines that the legislative body has provided an unconditional commitment pursuant to this subdivision, the action shall be dismissed with prejudice. (§ 54960.2, subd. (c)(3).)

Petitioner does not challenge the adequacy of the unconditional commitment letter, nor does she cite any legal theory or authority for allowing this cause of action to continue. Petitioner specifically seeks a judicial order that would compel the District to cure the alleged violations of the Brown Act by publicly and accurately disclosing the actions it took at the January 24th Board meeting. (FAP, Prayer, ¶ 2(c)—seeking order compelling District to "[p]ublicly report any action taken and the vote or abstention on that action of each member present for the action, as required under Government Code Section 54953, subdivision (c).) She states: "Because this remedy remains viable, the Second Cause of Action is not moot." (Opposition, p. 12, ll. 26 – p. 13, ll. 2.) This is presumably in service to her theory that the Board must have considered specific complaints and charges against her at that meeting, leading to her administrative leave.

But petitioner has not cited any specific authority or legal theory allowing this cause of action to proceed.[6] To the extent this cause of action can be read to seek an order precluding any future violations, that issue has been mooted by the unconditional commitment letter. To the extent petitioner seeks an order compelling the action she has described, she has not identified her legal theory. (*Quantum Cooking Concepts, Inc. v. LV Assocs., Inc.* (2011) 197 Cal. App. 4th 927, 934—"Rule 3.1113 rests on a policy-based allocation of resources, preventing the trial court from being cast as a tacit advocate for the moving party's theories by freeing it from any obligation to comb the record and the law for factual and legal support that a party has failed to identify or provide.")

The court accordingly sustains the demurrer with leave to amend should petitioner convince the court that leave to amend is appropriate.

3. 3rd Cause of Action

[6] The court acknowledges that petitioner can seek to nullify actions taken in violation of certain code sections, including section 54953 (d)(2) [which requires "[t]he legislative body of a local agency [to] publicly report any action taken and the vote or abstention on that action of each member present for the action"] (§54960.1, subd. (a).) But this is not the relief requested.

A majority of the members of a legislative body shall not, outside a meeting authorized by this chapter, use a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item of business that is within the subject matter jurisdiction of the legislative body. (§ 54952.2, subd. (b)(1).)Petitioner alleges that this code section was violated in two ways.

The first theory is based on a logical interpretation of the District's position, which is that the Board did not take any adverse employment actions against Dr. Loew based on charges or complaints against Petitioner Dr. Loew at the January 21, 2025, Board meeting or the January 24, 2025, Special Meeting. (FAP ¶ 54.) Petitioner asserts: "[i]f that is true, then it stands to reason that a majority of the Board must have used 'a series of communications' outside of a public meeting to discuss and decide to place Dr. Loew on leave outside." (FAP ¶ 54.) This, petitioner contends, is a violation of section 54952.2.

As to the second theory, Petitioner alleges that at a Board meeting on February 14, 2025, "the District did not indicate that a 'board workshop' would occur. Rather, under the guise of a 'Governance Team Training,' the [D]istrict held discussions between the Board and Superintendent Garcia while preventing the public from participating in deliberations." (FAP ¶ 57.) Petitioner contends this also violates section 54952.2.

A. Respondent's Failure to Explain Genesis of Decision to Place Petitioner on Paid Administrative Leave

Petitioner argues that her theory is that the Board must have discussed complaints or charges against her at some point before it took action to place her on paid administrative leave. If it did not occur during the closed session on January 21, then it must have occurred during a series of communications outside the meeting process. Accordingly, she argues that the demurrer to the third cause of action must be overruled because respondent failed to otherwise explain how the decision was reached, and she must be allowed to conduct discovery on the issue, as the District is in possession of all the information necessary to ascertain the sequence of events.

While that may all be true, there must nevertheless be a well-pled legal theory by complaint or petition to cabin and direct that exploration. This alone will not override any pleading considerations.

B. Series of Communications

Respondent points out that it formally responded to petitioner's cease-and-desist letter on this point with an unconditional commitment letter and thus, as above, contends that the matter is moot. Petitioner does not contend otherwise.

However, a general demurrer does not lie to only part of a cause of action. If there are sufficient allegations to entitle plaintiff to relief, other allegations cannot be challenged by general demurrer. (*Daniels v. Select Portfolio Servicing, Inc.* (2016) 246 Cal.App.4th 1150, 1167 (disapproved on other grounds by *Sheen v. Wells Fargo Bank, N.A.* (2022) 12 Cal.5th 905, 948 & fn. 12).) The court must accordingly examine the alternative theory alleged.

C. Failure to Properly Agendize Item

At least 72 hours before a regular meeting, the legislative body of the local agency, or its designee, shall post an agenda that meets all of the following requirements: [¶] The agenda shall contain a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session. (§ 54954.2, subd. (a)(1)(A).)

Petitioner alleges this provision was violated when, at the February 14, 2025, meeting, a "board workshop" occurred rather than the agendized item of a "Governance Team Training." She brings this cause of action pursuant to the procedural mechanisms under 54960 and 54960.2. (FAP, 3rd Cause of Action, Caption.)

Respondents first argue that petitioner failed to submit the requisite cease-and-desist letter as required by section 54960.2, subdivision (a), accurately pointing out that the letter attached as Exhibit T to the FAP does not include any request to cease-and-desist with regard to *this* asserted violation. (Section 54960.2, subd. (a)—"[A]ny interested person may file an action to determine the applicability of this chapter to past actions of the legislative body pursuant to subdivision (a) of Section 54960 <u>*only if all of the following conditions are met*</u>: [¶] the interested person alleging a violation of this chapter first submits a cease and desist letter . . .")

Petitioner notes she did submit a letter on February 16, 2025 (Exhibit H). This letter was titled "Formal Demand to Cure and Correct." In it, she specifically identified the February 14, 2025, meeting as an issue. Respondents dismiss the efficacy of this letter, suggesting it is a "cure and correct" letter (required for actions brought pursuant to section 54960.1 that would result in nullification of the action taken) rather than a "cease and desist" letter (required for actions brought pursuant to 54960.2 that allow the agency to commit to cease the alleged violations in the future).

As noted above, a "person alleging a violation of this chapter [must] first submit a cease and desist letter . . . clearly describing the past action of the legislative body and nature of the alleged violation. (§ 54960.2, subd. (a).) The purpose of the cease-and-desist letter is to allow the legislative body an opportunity to avoid unnecessary litigation by unconditionally committing to not repeating the past action without admitting a Brown Act violation. (§ 54960.2, subd. (c).)

The "cure and correct" letter sent on February 16, 2025, although it was improperly titled, included a demand that respondents "Acknowledge that the February 14, 2025, special meeting was not properly noticed, confirm that any actions taken at that meeting are voided, and issue a public statement committing to proper notice for a future meetings." (FAP, Exh. H, p. 4.) This seems adequate to be construed as a cease-and-desist letter. The demurrer on this point is overruled.

Respondent argues that this theory is subject to demurrer because petitioner failed to allege prejudice. The cases have held that a violation of the Brown Act will not automatically invalidate an action taken by a local agency or legislative body. The facts must show, in addition, that there was *prejudice* caused by the alleged violation. (*Galbiso v.*

Orosi Public Utility Dist. (2010) 182 Cal.App.4th 652, 670 and see cases cited therein.) Respondent argues there are no facts alleged here that petitioner was prejudiced in any way by the alleged violation. *Galbiso* is distinguishable. In that case, the court found that plaintiff had not adequately alleged the violation and thus had not alleged any prejudice.

Petitioner asserts that later cases suggest that "while a finding of prejudice is required before nullifying the Board's action (*San Lorenzo Valley Community Advocates for Responsible Education v. San Lorenzo Valley Unified School Dist.*, *supra*, 139 Cal.App.4th at p. 1378, 44 Cal.Rptr.3d 128), its allegation is not necessary to state a cause of action under section 54960.1 (see *Bell v. Vista Unified School Dist.*, *supra*, 82 Cal.App.4th at p. 684, 98 Cal.Rptr.2d 263). Plaintiffs' complaint satisfies the purposes of our inquiry on appeal following a demurrer. The prejudice determination is better left for a later proceeding after the facts can be ascertained." (*Olson v. Hornbrook Community Services Dist.* (2019) 33 Cal.App.5th 502, 522.) As

The court overrules the demurrer on this point.

<u>*Summary of Rulings*</u>

The request for judicial notice is granted.

The demurrer to the first cause of action is overruled. To the extent a cease-and-desist is necessary, the court find that the February 11, 2025, email is sufficient for pleading purposes. The court is not convinced that allegations that the Board received evidence or testimony from a percipient witness is required at the pleading stage.

The demurrer to the second cause of action is sustained pursuant to Government Code § 54960.2, subd. (c)(3). To the extent petitioner seeks an order compel the District to cure the alleged violations of the Brown Act by publicly and accurately disclosing the actions it took at the January 24th Board meeting, she must identify the legal authority permitting her to do so. Leave to amend will be permitted if the petitioner convinces the court that leave to amend is appropriate.

The demurrer to the third cause of action is overruled on the basis that plaintiff has adequately alleged the theory that the February 14, 2025, meeting was improperly agendized. The court is satisfied that the February 16, 2025 letter can be construed as a cease-and-desist letter and that the violation is otherwise adequately pled.