SUPERIOR COURT OF CALIFORNIA

COUNTY OF SOLANO

UFW FOUNDATION, LAURA HART, JOHN DOE, and JEANNIE PARENT, Petitioners/Plaintiffs, vs. THE COUNTY OF KERN, et al. Respondents/Defendants.	Case No. CU24-03274 Assigned to Hon. Judge Daniel Healy (pursuant to reassignment and transfer orders dated April 10, 2024, issued by Kern County Superior Court Case No. BCV-23- 101419) ~~[Proposed]~~ **Order Regarding (1) Demurrer by COUNTY OF KERN; ELSA MARTINEZ; WILLIAM (BILL) DICKINSON; and DONNY YOUNGBLOOD to Petitioners/Plaintiffs' Petition for Writ of Mandamus and Complaint; (2) Motion by Petitioners/Plaintiffs for Leave to File a Surreply; (3) Request for Judicial Notice by SUPERIOR COURT OF CALIFORNIA, COUNTY OF KERN; J. ERIC BRADSHAW; and TARA LEAL; (4) Demurrer by SUPERIOR COURT OF CALIFORNIA, COUNTY OF KERN; J. ERIC BRADSHAW; and TARA LEAL to Petitioners/Plaintiffs' Petition for Writ of Mandamus and Complaint.**

The above-entitled matters came for hearing on August 28, 2024, at 8:30 a.m., in Department 2, before the Honorable Judge Daniel Healy, presiding. Having reviewed and considered the written submissions by both parties as well as the oral arguments of counsel, the Court rules as follows:

I. County Respondents/Defendants' Demurrer to Petition for Writ of Mandate and Complaint

Respondents/Defendants County of Kern, Kern County Interim Chief Administrative Officer for Kern County, Elsa Martinez, Kern County Chief Probation Officer, William (Bill) Dickinson, and Kern County Sheriff, Donny Youngblood ("Sheriff") ("County Respondents") demur to counts one, three, four, five, six and seven of the Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief filed by Petitioners/Plaintiffs UFW Foundation, Laura Hart, John Doe, and Jeannie Parent ("Petitioners").

Legal Standard. "The function of a demurrer is to test the sufficiency of the complaint as a matter of law." (*Holiday Matinee, Inc. v. Rambus, Inc.* (2004) 118 Cal.App.4th 1413, 1420.) A complaint is sufficient if it alleges ultimate rather than evidentiary facts, but the plaintiff must set forth the essential facts of his or her case "with reasonable precision and with particularity sufficient to acquaint [the] defendant with the nature, source and extent" of the plaintiff's claim. (*Doheny Park Terrace Homeowners Assn., Inc. v. Truck Ins. Exchange* (2005) 132 Cal.App.4th 1076, 1099. Legal conclusions are insufficient. *Id.* at 1098–1099; *Doe v. City of Los Angeles* (2007) 42 Cal.4th 531, 551, fn. 5 [ultimate facts sufficient].) The Court "assume[s] the truth of the allegations in the complaint, but do[es] not assume the truth of contentions, deductions, or conclusions of law." (*California Logistics, Inc. v. State of California* (2008) 161 Cal.App.4th 242, 247.)

A writ of mandate under Code of Civil Procedure section 1085 is available where the petitioner has no plain, speedy and adequate alternative remedy; the respondent has a clear, present and usually ministerial duty to perform; and the petitioner has a clear, present and beneficial right to performance. (*Conlan v. Bonta* (2002) 102 Cal.App.4th 745, 752; *Unnamed Physician v. Board of Trustees of Saint Agnes Medical Center* (2001) 93 Cal. App. 4th 607, 618.)

Counts 1-6. County Respondents demur to counts one through six on the grounds that Petitioners have not adequately alleged any county respondent breached any clear duty to act under the constitution or any statute.

Count 1. Petitioners allege that County Respondents violated their mandatory legal duties under Article I, section 15 of the California Constitution to ensure all defendants in criminal cases have the right to assistance of counsel in their defense.

Article I, section 15, of the California Constitution mandates the right to counsel, stating, in relevant part: "The defendant in a criminal case has the right . . . to have the assistance of counsel for the defendant's defense . . . ." Under Article I, section 15 of the California Constitution, a defendant's right to the assistance of counsel is not limited to trial, but instead extends to other, "critical" stages of the criminal process. (*People v. Bryant, Smith and Wheeler* (2014) 60 Cal.4th 335, 465.) Article I, section 15 of the California Constitution, confers a right to counsel in misdemeanor proceedings. (*Rodriguez v. Municipal Court* (1972) 25 Cal.App.3d 521, 527 ["It is settled beyond cavil in this state that under the California Constitution (art. I, [former] § 13) an indigent defendant in a criminal prosecution for a misdemeanor, of whatever degree or type, is entitled to representation by counsel."].) Pleading and plea negotiations of a criminal proceeding is a critical stage to which the constitutional right to counsel attaches. (*Missouri v. Frye* (2012) 566 U.S. 134, 143; *In re Alvernaz* (1992) 2 Cal.4th 924, 933-934.).

Petitioners adequately allege the County Respondents have breached a mandatory duty to provide counsel. Petitioners allege facts showing that that the first critical stage in Kern County is, at latest, the initiation of the plea process which occurs before formal arraignment. (Compl. ¶¶ 27-30.) Additionally, Petitioners allege that in Kern County, public defenders are "effectively absent" during misdemeanor arraignment proceedings. (*Id.* at ¶¶ 42-47, 56, 62.)

County Respondents argue that a public defender is prohibited from representing any criminal defendant without a request by a defendant or order of the court pursuant to Government Code section 27706(a). However, the public defender "exercises an original power vested in him by statute, not superior to but coequal with the power of the court to determine whether a person is entitled to be represented by the public defender." (*Joshua P. v. Superior Court* (2014) 226

Cal.App.4th 957, 963, internal quotation omitted.) "[T]he right to counsel does not depend upon a request by the defendant." (*Brewer v. Williams* (1977) 430 U.S. 387, 404.) Moreover, Section 27706(a) does not relieve the Public Defender of responsibility of providing counsel absent court action. (*Joshua P., supra*, 226 Cal.App.4th at 963-964 ["The public defender is required by statute to determine whom to represent."].) Accordingly, the demurrer to count one is overruled.

Count 3. Petitioners allege that County Respondents have violated their mandatory duty to guarantee the right to due process under Article I, Section 15 of the California Constitution. Article I, Section 15 of the California Constitution states "[p]ersons may not . . . be deprived of life, liberty, or property without due process of law."

Petitioners adequately allege the County Respondents have breached a mandatory duty to guarantee the right to due process under Article I, Section 15 of the California Constitution. "[O]nly the prosecutor is authorized to negotiate a plea agreement on behalf of the state." (*People v. Segura* (2008) 44 Cal.4th 921, 930.) Petitioners allege that the misdemeanor arraignment system "[d]eputizes probation officers to act outside of their statutory authority, training, and without clear policy, and perform a function expressly afforded only to prosecutors." (Compl. ¶ 133.) Petitioners allege that probation officers, acting outside of their statutory authority, form and offer plea deals to uncounseled misdemeanor defendants, without the participation of the prosecutor. (*Id.* at ¶¶ 1, 23, 27-35.)

County Respondents argue that Petitioners do not adequately allege that County Respondents breach a ministerial duty to provide adequate advisals or trial rights. County Respondents argue that Courts not counties must ensure that misdemeanor defendants are properly advised of their trial rights prior to accepting a plea. However, County Respondents are also subject to the constitutional directives of Article I, Section 15 of the California Constitution. (See Cal Const, Art. I § 26 ["The provisions of this Constitution are mandatory and prohibitory, unless by express words they are declared to be otherwise."]; *Katzberg v. Regents of University of California* (2002) 29 Cal.4th 300, 306 [Under Cal Const, Art. I § 26, all branches of government are required to comply with constitutional directives or prohibitions].) Petitioners have alleged facts relating to County Respondents' involvement in operating the misdemeanor arraignment

system in contravention of Article I, Section 15 of the California Constitution. For example, Petitioners allege that the misdemeanor system relies on deficient waivers of the right to counsel and trial rights, which are provided by probation officers. (Compl. ¶¶ 1, 133.) Accordingly, the demurrer to count three is overruled.

Count 4. Petitioners allege that County Respondents have breached a mandatory duty to comply with the statutory prohibition against discrimination under Government Code section 11135(a). Section 11135(a) provides in part that "[n]o person in the State of California shall, on the basis of sex, race, color, religion, ancestry, national origin, ethnic group identification, age, mental disability, physical disability, medical condition, genetic information, marital status, or sexual orientation, be unlawfully denied full and equal access to the benefits of, or be unlawfully subjected to discrimination under, any program or activity that is conducted, operated, or administered by the state or by any state agency."

Petitioners adequately allege that County Respondents breached a mandatory to comply with the statutory prohibition against discrimination under Government Code section 11135(a). Section 11135 contains language expressing a mandatory duty. Section 11135(a) provides in part that "[n]o person in the State of California shall . . . be unlawfully subjected to discrimination[.]" (Gov. Code, § 11135, subd. (a).) The word "shall" in Section 11135 expresses a duty enforceable in mandamus. (See *San Francisco Bay Area Rapid Transit Dist. v. Superior Court* (1979) 97 Cal.App.3d 153, 160.) Petitioners have alleged facts showing that the Superior Court's misdemeanor arraignment procedures have a disparate impact on limited-English proficient ("LEP") defendants. (Compl. ¶¶ 59-60.) Petitioners allege that indigent defendants who rely on interpreters at their misdemeanor arraignments face radically different outcomes than indigent defendants who are fluent in English. (*Ibid.*) Accordingly, the demurrer to count four is overruled.

Count 5. Petitioners allege that County Respondents have violated their mandatory duty to comply with the statutory prohibition against discrimination contained in Title II of the Americans with Disabilities Act and its implementing regulations and Section 11135. Petitioners allege that Kern's misdemeanor arraignments discriminate against defendants with cognitive or mental disability by (1) denying them equal opportunities to participate effectively in their legal

proceedings; (2) relying on methods of administrative that are unduly burdensome; and (3) failing to provide reasonable accommodations. (Compl. ¶¶ 10-11, 24, 63-76, 96-102, 141-156.)

Title II of the ADA states that "no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity." (42 U.S.C. § 12132.)

Petitioners have adequately alleged that the County Respondents have violated their mandatory duty to comply with the statutory prohibition against discrimination contained in Title II of the ADA and its implementing regulations and Section 11135. Like Section 11135, the ADA contains language expressing a mandatory duty. The ADA provides that "no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs or activities of a public entity, or be subjected to discrimination by any such entity." (42 U.S.C. § 12132.) And a public entity "shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability[.]" (28 C.F.R. §§ 35.130, subds. (b)(7)(i).) The word "shall" expresses a duty enforceable in mandamus. (See *San Francisco Bay Area Rapid Transit Dist., supra,* 97 Cal.App.3d at 160.) Petitioners allege that public defenders are either not present in the courtroom, or do not attempt to speak with and screen defendants for competency prior to any waiver of rights and entry of a guilty plea. (Compl. ¶ 64.) Petitioners allege that probation officers do not have any tool for screening defendants to ensure that they are competent to proceed. (*Ibid.*) Accordingly, the demurrer to count five is overruled.

Count 6. Petitioners allege that the Sheriff breached a mandatory duty to comply with the constitutional obligation to guarantee the right to public access to court proceedings.

Under the First Amendment, the public has a presumptive right to attend criminal trials and pre-trial proceedings, unless the court makes factual findings the closure is necessary to serve an overriding interest and is narrowly tailored to serve that interest. (*Press-Enterprise Co. v. Superior Court* (1986) 478 U.S. 1, 9.)

Petitioners adequately allege that the Sheriff breached a mandatory duty to comply with the constitutional obligation to guarantee the right to public access to court proceedings. Petitioners allege that Kern County systematically closes the courtroom during the Closed-Door Processing portion of the arraignment. (Compl. ¶ 159.) Petitioners allege that Bailiffs and probation officers prevent members of the public from entering the courtroom based on an asserted Superior Court policy. (*Ibid.*) Petitioners allege that the County and the Court have made no findings that closure serves a compelling interest; that there is a substantial probability that, in the absence of closure, this compelling interest would be harmed; or that there are no alternatives to closure that would adequately protect the compelling interest." (*Id.* at ¶ 161.)

County Respondents argue that public access to a courtroom is controlled by courts, not county sheriffs. However, the Sheriff is also subject to the constitutional directives of the First Amendment. (See *Katzberg, supra,* Cal.4th at 306.) Petitioners have alleged facts relating to the Sheriff's involvement in the systematic closure of Kern's courtroom during the Closed-Door Processing in contravention to the First Amendment right to public access to court proceedings. Accordingly, the demurrer to count six is overruled.

Count 7. County Respondents demur to count seven on the basis that a taxpayer action cannot be maintained where there is an adequate remedy at law. County Respondents contend that misdemeanor defendants have an adequate remedy at law under Penal Code sections 1018, 1016.5, 1473(a), and 1203.4(a)(1) barring writ relief. This is incorrect. These remedies provide individual post-conviction relief which fails to address the wholesale deficiencies of the challenged practices. (See *Knoff v. City etc. of San Francisco* (1969) 1 Cal.App.3d 184, 199.) Accordingly, the demurrer to count seven is overruled.

Conclusion. County Respondents' demurrer is overruled with regard to Petitioners' counts one, three, four, five, six, and seven.

County Respondents shall file their answer within 30 days.

II. Petitioners/Plaintiffs' Motion for Leave to File Surreply

Under the general rule of motion practice, new evidence or argument is not permitted with reply papers. (See *Maleti v. Wickers* (2022) 82 Cal.App.5th 181, 228; *Jay v. Mahaffey* (2013) 218 Cal.App.4th 1522, 1537-1538; cf. *Alliant Ins. Services, Inc. v. Gaddy* (2008) 159 Cal.App.4th 1292, 1307-1308 [court has discretion to accept new evidence in reply papers as long as opposing party is given an opportunity to respond].)

Petitioners' motion for leave to file the proposed surreply attached as Appendix A is granted.

Judicial Respondents argue for the first time on reply that to the extent that Plaintiffs' complaint seeks declaratory or injunctive relief directing the presiding judge or any other judge of the Superior Court how to exercise their judicial discretion, such relief is precluded by the doctrine of judicial immunity. Judicial Respondents also argue that injunctive and declaratory relief are precluded against the CEO under the doctrine of quasi-judicial immunity.

County Respondents argue for the first time on reply that under the separation of powers doctrine, courts control the procedures and processes of arraignment and counties cannot interfere with those procedures and mandamus cannot compel a branch of the government to violate the separation of powers.

The Court is unpersuaded by the Judicial Respondents' new argument related to judicial immunity. Petitioners seek injunctive and declaratory relief, not monetary damages. Case law is clear that judicial immunity does not bar claims for injunctive and declaratory relief. (*Lezama v. Justice Court* (1987) 190 Cal.App.3d 15, 20 ["The court concluded quite plainly that 'judicial immunity is not a bar to prospective injunctive relief against a judicial officer acting in her judicial capacity.'"]; *Mahler v. Judicial Council of California* (2021) 67 Cal.App.5th 82, 110 ["Since it appears to be the universal view of the federal courts, with sound basis, that the common law doctrine of judicial immunity has never foreclosed declaratory relief, we take that view, as well."].

The Court is also unpersuaded by the County Respondents' new argument related to the separation of powers. Petitioners' claims do not raise separation of powers issues. Petitioners do not allege that the County Respondents should perform the functions of the Court, or vice versa.

Petitioners also do not allege that the Respondents are equally responsible to perform each other's duties.

III. Request for Judicial Notice by Judicial Respondents/Defendants' Request for Judicial Notice

Judicial Respondents' Request for Judicial Notice is granted as to all documents requested. Exhibits B, C, D, E and H are judicially noticeable under Evidence Code section 452(c). Exhibits F and G are judicially noticeable under Evidence Code section 452(d). Exhibits I through M are judicially noticeable under Evidence Code section 452(h).

IV. Judicial Respondents'/Defendants' Demurrer to Petition for Writ of Mandamus and Complaint

Respondent/Defendants Superior Court of California, County of Kern ("Superior Court"), its Presiding Judge, the Hon. J. Eric Bradshaw, and its Court Executive Officer, Tara Leal ("Judicial Respondents") demur to counts one through seven of the Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief filed by Petitioners/Plaintiffs UFW Foundation, Laura Hart, John Doe, and Jeannie Parent ("Petitioners").

Legal Standard. "The function of a demurrer is to test the sufficiency of the complaint as a matter of law." (*Holiday Matinee, Inc. v. Rambus, Inc.* (2004) 118 Cal.App.4th 1413, 1420.) A complaint is sufficient if it alleges ultimate rather than evidentiary facts, but the plaintiff must set forth the essential facts of his or her case "with reasonable precision and with particularity sufficient to acquaint [the] defendant with the nature, source and extent" of the plaintiff's claim. (*Doheny Park Terrace Homeowners Assn., Inc. v. Truck Ins. Exchange* (2005) 132 Cal.App.4th 1076, 1099. Legal conclusions are insufficient. *Id.* at 1098–1099; *Doe v. City of Los Angeles* (2007) 42 Cal.4th 531, 551, fn. 5 [ultimate facts sufficient].) The Court "assume[s] the truth of the allegations in the complaint, but do[es] not assume the truth of contentions, deductions, or conclusions of law." (*California Logistics, Inc. v. State of California* (2008) 161 Cal.App.4th 242, 247.)

Counts 1-6. Judicial Respondents demur to counts one through six on the grounds that this Court lacks jurisdiction to issue writ relief against Judicial Respondents, and the pleading fails to

state facts sufficient to constitute a cause of action against Judicial Respondents.

As to the substance of the petition, Petitioners' claims appear both substantive and important, calling into question the integrity of court processes and raising significant concerns about a lack of access to justice by persons entitled to such access, including the indigent, disabled, mentally ill and non-English-speaking persons.

Procedurally, however, Code of Civil Procedure section 1085 states that a "writ of mandate may be issued by any court to any **inferior** tribunal, corporation, board, or person, to compel the performance of an act which the law specially enjoins, as a duty resulting from an office, trust, or station, or to compel the admission of a party to the use and enjoyment of a right or office to which the party is entitled, and from which the party is unlawfully precluded by that inferior tribunal, corporation, board, or person." (Code Civ. Proc., § 1085.) Neither the Superior Court, nor its presiding judge and court executive officer acting in their official capacities are an "inferior tribunal" to this Court. Therefore, this Court does not have jurisdiction over mandamus counts one through six. (*Haldane v. Superior Court of Los Angeles County* (1963) 221 Cal.App.2d 483, 485-486 ["Mandamus or prohibition may be issued only by a court to another court of inferior jurisdiction."].

Petitioners assert that the Court has jurisdiction to exercise mandamus jurisdiction over Judicial Respondents, who are "persons" under Section 1085. Petitioners rely on *TrafficSchoolOnline, Inc. v. Superior Court* (2001) 89 Cal.App.4th 222. In this case, petitioner, a provider of an online traffic school filed a petition for writ of mandate to compel respondent court executive officer to evaluate petitioner's home study traffic school program. (*Id.* at 225.) The superior court had authority to dismiss traffic citations upon attendance at a court approved program of driving instruction and exercised its power to determine which programs would be approved. (*Ibid.*) According to the policy adopted by the superior court, the committee was to review home study courses for traffic school instruction then make recommendations to the court executive officer who would then publish a list of courses which were deemed to be approved. (*Ibid.*) After filing the petition, the municipal and superior courts were unified and the case was subsequently transferred to another county superior court. (*Id.* at 227.) The superior court found it

did not have jurisdiction under Code of Civil Procedure 1085 and transferred the case to the Court of Appeal under Code of Civil Procedure section 396. (*Id.* at 227-228.) The Court of Appeal held that the court could not transfer the case from itself to the Court of Appeal under Section 396. The Court of Appeal then held that the court had subject matter jurisdiction over the petition as the court executive officer was a "person" under Section 1085, given "the parties agree he would be the responsible officer for determining whether to certify plaintiff as a traffic school provider." (*Id.* at 235- 236.)

TrafficSchoolOnline, Inc. is not applicable. First, the case does not discuss whether a presiding judge constitutes a "person" under Section 1085. Second, although the case found that the court executive officer was a "person" for purposes of mandamus jurisdiction, the parties to that case agreed that it was a matter within the responsibility of the executive officer. There is no such agreement here. There are no allegations indicating that any of the conduct is within the sole responsibility of the court executive officer. The petition only states that the court executive officer is responsible for "overseeing the management and administration of the nonjudicial operations of the court and for "allocating resources in a manner that promotes access to justice for all members of the public." (Compl. ¶ 18.) Accordingly, the demurrer to counts one through six is sustained on the ground that this Court lacks jurisdiction to issue writ relief against Judicial Respondents.

The Court here is mindful of the underlying allegations in this case and the admittedly Kafkaesque[1] circumstances presented here: Petitioners credibly claim that they are being denied access to the court and seek judicial redress of their grievances. In response, this court is telling them that they have no access via a writ of mandate to compel such access.

Here, as the Court has determined that it does not have jurisdiction over the petition and cannot transfer the petition unilaterally to the Court of Appeal or Supreme Court, Petitioners can seek relief by filing a subsequent Petition for Writ of Mandate in the Court of Appeal. Petitioners

[1] See Kafka, Franz, *Before the Law*, (first published as a short story in 1919 then included in *The Trial*, 1925.

will have shown compliance with CRC 8.486(a)(1) having first attempted to seek relief in the trial court.

The California Supreme Court has declared that it is the policy of the Supreme Court and courts of appeal to refuse to exercise their original jurisdiction in the first instance unless the circumstances are exceptional, and that this policy seeks to encourage the filing of petitions for writs of mandamus in the superior court. (*Friends of Mammoth v. Board of Supervisors* (1972) 8 Cal. 3d 247, 269.) A court of appeal will exercise its original jurisdiction in the first instance to issue a writ of mandate, in order to resolve issues of great public import whose prompt resolution is necessary. (*California Privacy Protection Agency v. Superior Court* (2024) 99 Cal. App. 5th 705, 720.)

The trial court's lack of jurisdiction would very much appear to be an exceptional circumstance warranting the Court of Appeal's exercise of original jurisdiction over the petition given (1) Petitioners will be without legal recourse to pursue their claims if the Court of Appeal declines jurisdiction; and (2) denial would not serve the Court of Appeal's policy for refusing to exercise original jurisdiction over petitions in the first instance [to encourage the filing of petitions in the superior court].

Count 7. Judicial Respondents demur to count seven on the grounds that this Court lacks jurisdiction to issue any relief against Judicial Respondents and the pleading fails to state facts sufficient to constitute a cause of action against Judicial Respondents.

Code of Civil Procedure section 526a provides, in part, that "[a]n action to obtain a judgment, restraining and preventing any illegal expenditure of, waste of, or injury to, the estate, funds, or other property of a local agency, may be maintained against any officer thereof, or any agent, or other person, acting in its behalf, either by a resident therein, or by a corporation, who is assessed for and is liable to pay, or, within one year before the commencement of the action, has paid, a tax that funds the defendant local agency . . ." (Code Civ. Proc., § 526a.)

Raju v. Superior Court (2023) 92 Cal.App.5th 1222, rev. granted is instructive. There, the Court of Appeal allowed a taxpayer action to proceed against the San Francisco Superior Court based on its purported failure to expedite criminal proceedings by not opening more courts for

criminal trials. In distinguishing *Ford v. Superior Court* (1986) 188 Cal.App.3d 737, the Court of Appeal explained that the taxpayer action did not seek to "improperly upset" decisions in individual criminal cases. (*Id.* at 1236.)

Judicial Respondents argue that the relief requested in the Complaint would improperly upset the decisions in individual criminal cases. However, Petitioners' action does not challenge the actions of individual criminal cases, but instead challenges a policy decision regarding the operation of a misdemeanor arraignment system. Accordingly, the Court has jurisdiction over Petitioners' taxpayer action.

Petitioners' state a claim that Respondents make illegal expenditures of Government funds in violation of CCP section 526a and have pled an "actual controversy." Petitioners allege that Respondents "expend taxpayer funds to run the misdemeanor arraignment process" in violation of the Constitution and state and federal law. (Compl. ¶ 166.) Petitioners allege systematic deprivation of access to counsel and due process; discrimination; and deprivation of public access to court proceedings in violation of the Constitution and state and federal law. (*Ibid.*)

Judicial Respondents fail to show that the case is moot. "A case is moot when the reviewing court cannot provide the parties with practical, effectual relief." (*City of San Jose v. International Assn. of Firefighters, Local 230* (2009) 178 Cal.App.4th 408, 417.) "The voluntary cessation of allegedly wrongful conduct destroys the justiciability of a controversy and renders an action moot unless there is a reasonable expectation the allegedly wrongful conduct will be repeated." (*Center for Local Government Accountability v. City of San Diego* (2016) 247 Cal.App.4th 1146, 1157.) None of the judicially noticed documents or briefing demonstrates a meaningful alteration of the challenged practices. The Court finds that Exhibits D and E, emails from Assistant Presiding Judge Lua do not demonstrate that Judicial Respondents made any meaningful policy changes precluding the challenged practices. Accordingly, Judicial Respondents' demurrer to count seven is overruled.

Conclusion. Judicial Respondents' demurrer is sustained with regard to Petitioners' counts one through six without leave to amend, and overruled as to Petitioners' count seven. Judicial Respondents shall file their answer within 30 days.

Case Management Conference. The Court hereby sets an initial Case Management Conference for Wednesday, October 30, 2024 at 8:30 AM in Department 2 via Zoom. Counsel are directed to meet and confer and provide to this Court no later than October 25, 2024, a joint statement of how best to proceed forward including (1) a proposed discovery schedule; and (2) a proposed mediation plan.

IT IS SO ORDERED.

Dated: 09/06/2024

THE HONORABLE DANIEL HEALY
JUDGE OF THE SUPERIOR COURT