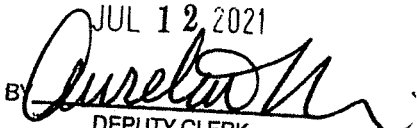


1 ARTHUR J. CASEY [SBN 123273]  
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6 Attorneys for Defendant  
ROLAN RESENDIZ, misnamed as RESENDEZ

FILED  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN BENITO

JUL 12 2021  
By   
DEPUTY CLERK

Exempt from Filing  
Fees Per Govt. Code § 6103

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 COUNTY OF SAN BENITO

13 IRMA GONZALEZ,

14 Plaintiff,

15 vs.

17 ROLAN RESENDEZ [sic]; IGNACIO  
18 VELASQUEZ; CITY OF HOLLISTER; and  
DOES 1 to 20,

19 Defendants.

Case No. CU-21-00005

~~[proposed]~~ ORDER FOLLOWING  
HEARING SUSTAINING DEMURRER  
TO COMPLAINT BY DEFENDANT  
ROLAN RESENDIZ, WITH 90 DAYS'  
LEAVE TO AMEND

Date: July 1, 2021  
Time: 1:30 p.m.  
Dept.: 1  
Hon. J. Omar Rodriguez

CASEY LAW GROUP  
ATTORNEYS AT LAW

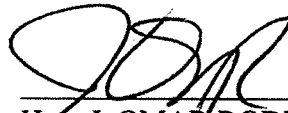
FILED BY FACSIMILE

1 The demurrer of defendant Rolan Resendiz (misnamed Resendez in the caption) as to the  
2 Judicial Council form Complaint in the above-captioned action filed by plaintiff Irma Gonzalez,  
3 and as to each cause of action therein, came on regularly for hearing before this Court on July 1,  
4 2021, at 1:30 p.m., in Department 1 of the above-named Court. Donald P. Gagliardi, Esq.  
5 appeared for Mr. Resendiz, while Bradley W. Sullivan, Esq. appeared for Irma Gonzalez. Having  
6 read and considered the demurrers and memoranda, and having heard argument of counsel, and  
7 good cause appearing therefor,

8 IT IS ORDERED that the demurrer of defendant Rolan Resendiz to the Complaint, and to  
9 each cause of action therein, is SUSTAINED, with ninety (90) days' leave to amend from the date  
10 of the hearing, *i.e.*, September 30, 2021. (Insofar as the demurrer sought to attack the remedies  
11 requested by plaintiff, the demurrer is overruled.) *See, Code of Civil Procedure ("CCP") §§*  
12 *430.010(e) & (f).*

13 SO ORDERED.

14  
15 Dated: July 12, 2021



16 Hon. J. OMAR RODRIGUEZ  
17 JUDGE OF THE SUPERIOR COURT

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**PROOF OF SERVICE**  
*Irma Gonzalez v. Rolan Resendez [sic], et al.*  
**Case No. CU-20-00005 (San Benito Superior Court)**

I, *Mariela Nery*, declare:

I am over the age of eighteen (18) years and not a party to the within entitled action. I am employed by Ford Walker Haggerty & Behar. I am readily familiar with Ford Walker Haggerty & Behar's practice for collection and processing of documents for delivery by way of the service indicated below.

On **JULY 6, 2021**, I served the following document(s):

**[proposed] ORDER FOLLOWING HEARING SUSTAINING DEMURRER TO COMPLAINT BY DEFENDANT ROLAN RESENDIZ, WITH 90 DAYS' LEAVE TO AMEND**

on the interested party(ies) in this action as follows:

**BY E-MAIL:** By agreement of the parties to accept service by electronic transmission, I caused the document(s) to be sent from email address [mnery@fwhb.com](mailto:mnery@fwhb.com) to the persons at the electronic notification addresses shown below.

Bradley W. Sullivan, Esq.  
852 Alder Place  
Lodi, CA 95242  
**EMAIL:** [Sullivan.brad@gmail.com](mailto:Sullivan.brad@gmail.com)

Attorney for Plaintiff:  
**ELIA SALINAS**

Felicia A. Starr  
Skane Mills  
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Los Angeles, CA 90017  
**EMAIL:** [fstarr@skanemills.com](mailto:fstarr@skanemills.com)

Attorneys for Defendant:  
**CITY OF HOLLISTER**

Jonathan Belaga  
Skane Mills  
33 New Montgomery, Suite 1250  
San Francisco, CA 94105  
**EMAIL:** [jbelaga@skanemills.com](mailto:jbelaga@skanemills.com)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on **JULY 6, 2021**, at Los Gatos, California.

*Mariela Nery*  
\_\_\_\_\_  
**MARIELA NERY**

IN THE SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN BENITO  
COURTROOM 1

Gonzalez, Irma	)	Case No.	<b>CU-21-00005</b>
Plaintiff/Petitioner,	)	Event Date:	<b>07/01/2021</b>
v.	)	Event Type:	<b>Demurrer</b>
	)	Mtn/OSC:	
Resendez, Rolan et al	)	Add'l Info:	<b>filed by Defendant Resendez</b>
Defendant/Respondent.	)	Judge:	<b>Omar Rodriguez</b>
	)	Clerk:	<b>Mary Medland</b>
	)	Reporter:	<b>Virginia Barrios</b>

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**Civil Unlimited - Minutes**

**Appearances:**

Attorney:Bradley W. Sullivan is appearing via court call on behalf of Plaintiff(s) Elia Salinas  
Attorney:Jonathan Belaga is present on behalf of Defendant(s) City of Hollister & Mayor Ignacio Velasquez  
Attorney:Donald P. Gagliardi is appearing via court call on behalf of Defendant(s) Rolan Resendez  
There are no appearances by Plaintiff or Defendant Resendez

**Nature of Proceedings:**

Demurrer cause of action shall be sustained

Attorney Bradley Sullivan makes his argument as to his objection to Court's Tentative Ruling. Asks the court to consider to continue this matter, to allow a substitution of attorney because of disability of counsel, Business and Professional Code 6190. Clearly plead in the pleadings that the comments done by Mayor and Resendez continued on Facebook. As the court take into consideration his health and delay and continue this matter until the case can be given to someone physically able to do the work to move the case along.

Attorney Jonathan Belaga responds, Motion/anti-slapp was filed 3/13/21, there is not reasonable argument that the speech between the parties is not protected. Even if given more time there is no facts to plead. Its a political dispute that these people have. No allegations made to what was said. This is clear political speech. Velasquez was not joined in the anti-slapp motion but was joined in the demurrer. Granting Mr. Sullivan more time would not make any difference.

Attorney Donald Gagliardi responds, submits on the tentative ruling. made an appearance because of Mr. Sullivan's indicated he wanted to speak at this hearing. I would ask the court to give some consideration to Mr. Sullivan's health condition, Court stands on the tentative ruling, but if possible allow Complaint stricken but leave to amend within 90 days if a new attorney were to substitute in for Attorney Sullivan. I Agrees with Mr. Belaga's statement.

Court Grants leave to amend Complaint within 90 days.

Tentative Rulings "The hearing is continued to July 1, 2021.

The Defendants' Special Motion to Strike Plaintiff's Complaint pursuant to Code of Civil Procedure 425.16 is GRANTED as the Defendants have met their burden that the causes of action listed in the Complaint arose from actions by Defendants, which were in furtherance of constitutionally protected free speech.

To apply the anti-SLAPP statute, courts engage in a two-step process. The first step is to determine whether the moving party has made a threshold showing that the challenged cause of action is one arising from protected activity. The defendant has the initial burden of showing that the acts underlying the plaintiff's suit fall within one or more of the categories of conduct. (*Lee v. Silveira* (2016) 6 Cal.App.5th 527, 538.) Specifically, the causes of action are based, in part, on conduct made before a legislative proceeding, which is a listed activity under California Code of Civil Procedure Section 425.16(e)(1). It is not a defense to a special motion to strike for mixed causes of action that combines allegations of activity protected by the statute with allegations of unprotected activity. (*Baral v. Schnitt* (2016) 1 Cal.5th 376, 381.)

Once the Defendant has met its burden, the burden shifts to the plaintiff to establish that there is a probability that it will prevail on its claim. (Cal. Civ. Proc. §425.16(b)(1).) The Plaintiff's burden of establishing a probability of prevailing is not high. (*Monster Energy Co. v. Schechter* (2019) 7 Cal.5th 781, 793.) However, Plaintiff has failed to respond at all to the Defendants' motion. Therefore, each and every cause of action is hereby stricken.

A judge must award attorney's fees and costs to a defendant that prevails on a special motion to strike. (Cal. Civ. Proc. §425.16(c)(1).) Here, Defendants have prevailed on the special motion to strike and the Court awards it the requested amount of \$7,610.00 in attorneys' fees.

As a result of the Court's Order regarding the Special Motion to Strike, the demurrer is rendered moot."