

No. \_\_\_\_\_

In the  
Supreme Court of the United States

Sergei Vinkov,

Petitioner,

v.

California Superior Court for County of Riverside

Respondent

## **APPENDIX**

to the  
PETITION FOR A WRIT OF CERTIORARI  
[Appendices A-F; pages **1a-26a**]

Sergei Vinkov

*Pro Se*

40795 Nicole Court,  
Hemet, California,  
92544

(951) 380 53 39

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**APPENDIX-A. US Supreme Clerk's Notice  
granting extension under application No.  
22A487, December 2, 2022.**

**SUPREME COURT OF THE UNITED STATES  
OFFICE OF THE CLERK  
WASHINGTON, DC 20543-0001**

Scott S. Harris  
Clerk of the Court  
(202 479-3011)

December 2, 2022

Sergei Vinkov  
40795 Nicole Court  
Hemet, CA 92544

RE: Sergei Vinkov v. Superior Court of California,  
Riverside County, et al.  
Application No. 22A487

Dear Mr. Vinkov:

The application for an extension of time within which to file a petition for a writ of certiorari in the above-entitled case has been presented to Justice Kagan, who on December 2, 2022, extended the time to an including February 3, 2023.

This letter had been sent to those designate on the attached notification list.

Sincerely,  
**Scott S. Harris,**  
Clerk

By:

s/  
Jacob A. Levitan  
Case Analyst

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SUPREME COURT OF THE UNITED STATES  
OFFICE OF THE CLERK  
WASHINGTON, DC 20543-0001

Scott S. Harris  
Clerk of the Court  
(202 479-3011)

NOTIFICATION LIST

Sergei Vinkov  
40795 Nicole Court  
Hemet, CA 92544

Clerk,  
Court of Appeal of California, Fourth Appellate  
District, Division Two 3389 12<sup>th</sup> Street  
Riverside, CA 92501

**APPENDIX-B. CA Supreme Court Clerk's  
Notice denying to accept petition for  
reconsideration in case S275817 dated  
09/30/2022.**

COURT SEAL/LOGO

Supreme Court of California

JORGE E. NAVARRETE	EARL WARREN BUILDING
CLERK AND EXECUTIVE OFFICER	350 McALLISTER STREET
OF THE SUPREME COURT	SAN FRANCISCO, CA 94102
	(415) 865-7000

September 30 2022

Sergei Vinkov  
40795 Nicole Court  
Hemet, CA 92544

**Re: S275817 - VINKOV v. S.C. (SMITH)**

Dear Mr. Vinkov:

Return unfiled is your "Petition for Rehearing" which was received via TrueFiling on September 29, 2022. The order denying your petition for review on September 14, 2022 in the above-referenced matter was final forthwith and may not be reconsidered. Please rest assured, however, that the petition, and the contentions made therein, were considered by the entire court, and that the denial expresses the decision of the court on this matter.

Very truly yours,  
JORGE E. NAVARRETE  
Clerk and

Executive Officer of the Supreme Court

s/

By: T. Zhang, Deputy Clerk

cc: All Parties  
Rec.

**APPENDIX-C. CA Supreme Court Order  
denying petition for review and motion for  
judicial notice in case S275817 dated  
09/14/2022.**

SUPREME COURT FILED  
SEP 14 2022  
Jorge Navarrete Clerk  
Deputy

Court of Appeal, Fourth Appellate District, Division Two - No.  
E079115

**S275817**

**IN THE SUPREME COURT OF CALIFORNIA**

**En Banc**

---

SERGEI VINKOV, Petitioner,

v.

SUPERIOR COURT OF RIVERSIDE COUNTY, Respondent,

MARK SMITH et al., Real Party in Interest

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The request for judicial notice is denied.  
The petition for review is denied.

**CANTIL-SAKAUYE**  
*Chief of Justice*

**APPENDIX-D. Copy of CA Court of Appeals  
Order Denying Mandamus Petition in case  
E079115 dated 07/25/2022.**

Court of Appeal, Fourth Appellate District, Division Two  
Kevin J Lane, Clerk/Executive Officer  
Electronically FILED on 7 /29 /20 20 by M. Jackovich, Deputy  
Clerk

COURT OF APPEAL -- STATE OF CALIFORNIA  
FOURTH DISTRICT  
DIVISION TWO

**ORDER**

SERGEI VINKOV,	E079115
Petitioner,	(Super.Ct.No. MCC1900188)
v.	
THE SUPERIOR COURT OF	The County of Riverside
RIVERSIDE COUNTY,	
Respondent;	
MARK SMITH et al.,	
Real Parties in Interest.	

---

THE COURT

The petition for writ of mandate is DENIED.

FIELDS

Acting P.J.

Panel: Fields  
Menetrez  
Miller

cc: See attached list

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MAILING LIST FOR CASE: E079115

Sergei Vinkov v. The Superior Court, Mark Smith et. al.

Superior Court Clerk  
Riverside County  
P.O.'Box 431 - Appeals  
Riverside, CA 92502



Sergei Vinkov  
40795 Nicole Court  
Hemet, CA 92544

Bret David Lewis  
Law Offices of Bret D. Lewis  
12304 Santa Monica Blvd.,  
107A  
Los Angeles, CA 90025

**APPENDIX-E. Copy of CA Superior Court of  
Riverside Minute Order Denying CCP 473 Motion  
in case MCC1900188 dated 04/11/2022.**

Superior Court of California, County of Riverside  
Southwest Justice Center  
Hearing re: Motion to Correct Clerical Error  
(CCP §473)

04/11/2022  
8:30 AM  
Department S302

Amended  
MCC1900188  
SMITH VS VINKOV

Honorable Angel M. Bermudez, Judge  
A. Behrmann, Courtroom Assistant  
Court Reporter: None

\*\*\*\*\*  
**APPEARANCES:**  
SERGEI DANIEL VINKOV is present Telephonically,  
represented by PRO PER  
SMITH, MARK [PLA], SOLAR FORWARD ELECTRIC, INC.  
[PLA] represented by Stephen Shikes specially appearing.  
\*\*\*\*\*

Minute order is Amended Nunc Pro Tunc, see minute order  
dated 04/12/22.

At 08:59 AM, the following proceedings were held:  
Court has Read and Considered documents relating to this  
matter.

Court's tentative is issued.

There is request for oral argument.

Parties argue.

Matter is taken under submission

Off the record – Court subsequently rules on matter taken  
under submission as follows:

Tentative ruling shall become the ruling of the court.

The Motion is denied.

Defendant's cross-complaint was dismissed long ago in 2019,  
which ruling has become final. Thus, the only operative  
pleading is Plaintiffs' First Amended Complaint. Plaintiffs

therefore had the right to file the request for dismissal without Defendant's consent, which request was timely filed before the scheduled trial date. Under CCP § 581(b)(1), a plaintiff has the right to dismiss the entire action with or without prejudice "at any time before the actual commencement of trial, upon payment of the costs, if any." There was no error by the clerk in entering the dismissal.

Notice to be given by Clerk.

## APPENDIX-F. CONSTITUTIONAL AND STATUTORY PROVISIONS

### Constitutional Provisions

#### CA Const. art. I, § 2

(a) Every person may freely speak, write and publish his or her sentiments on all subjects, being responsible for the abuse of this right. A law may not restrain or abridge liberty of speech or press.

(b) A publisher, editor, reporter, or other person connected with or employed upon a newspaper, magazine, or other periodical publication, or by a press association or wire service, or any person who has been so connected or employed, shall not be adjudged in contempt by a judicial, legislative, or administrative body, or any other body having the power to issue subpoenas, for refusing to disclose the source of any information procured while so connected or employed for publication in a newspaper, magazine or other periodical publication, or for refusing to disclose any unpublished information obtained or prepared in gathering, receiving or processing of information for communication to the public.

Nor shall a radio or television news reporter or other person connected with or employed by a radio or television station, or any person who has been so connected or employed, be so adjudged in contempt for refusing to disclose the source of any information procured while so connected or employed for news or news commentary purposes on radio or television, or for refusing to disclose any unpublished information obtained or prepared in gathering, receiving or processing of information for communication to the public.

As used in this subdivision, "unpublished information" includes information not disseminated to the public by the person from whom disclosure is sought, whether or not related information has been

disseminated and includes, but is not limited to, all notes, outtakes, photographs, tapes or other data of whatever sort not itself disseminated to the public through a medium of communication, whether or not published information based upon or related to such material has been disseminated.

(Sec. 2 amended June 3, 1980, by Prop. 5. Res.Ch. 77, 1978.)

CA Const. art. I, § 4

(a) Free exercise and enjoyment of religion without discrimination or preference are guaranteed. This liberty of conscience does not excuse acts that are licentious or inconsistent with the peace or safety of the State. The Legislature shall make no law respecting an establishment of religion.

A person is not incompetent to be a witness or juror because of his or her opinions on religious beliefs.

CA Const. art. I, § 7

(a) A person may not be deprived of life, liberty, or property without due process of law or denied equal protection of the laws; provided, that nothing contained herein or elsewhere in this Constitution imposes upon the State of California or any public entity, board, or official any obligations or responsibilities which exceed those imposed by the Equal Protection Clause of the 14th Amendment to the United States Constitution with respect to the use of pupil school assignment or pupil transportation. In enforcing this subdivision or any other provision of this Constitution, no court of this State may impose upon the State of California or any public entity, board, or official any obligation or responsibility with respect to the use of pupil school assignment or pupil transportation, (1) except to remedy a specific violation by such party that would also constitute a violation of the Equal Protection Clause of the 14th Amendment to the United States Constitution, and (2) unless a federal court would be permitted under federal decisional law to impose that obligation or responsibility upon such party to remedy the specific violation of the

Equal Protection Clause of the 14th Amendment of the United States Constitution.

Except as may be precluded by the Constitution of the United States, every existing judgment, decree, writ, or other order of a court of this State, whenever rendered, which includes provisions regarding pupil school assignment or pupil transportation, or which requires a plan including any such provisions shall, upon application to a court having jurisdiction by any interested person, be modified to conform to the provisions of this subdivision as amended, as applied to the facts which exist at the time of such modification.

In all actions or proceedings arising under or seeking application of the amendments to this subdivision proposed by the Legislature at its 1979-80 Regular Session, all courts, wherein such actions or proceedings are or may hereafter be pending, shall give such actions or proceedings first precedence over all other civil actions therein.

Nothing herein shall prohibit the governing board of a school district from voluntarily continuing or commencing a school integration plan after the effective date of this subdivision as amended.

In amending this subdivision, the Legislature and people of the State of California find and declare that this amendment is necessary to serve compelling public interests, including those of making the most effective use of the limited financial resources now and prospectively available to support public education, maximizing the educational opportunities and protecting the health and safety of all public school pupils, enhancing the ability of parents to participate in the educational process, preserving harmony and tranquility in this State and its public schools, preventing the waste of scarce fuel resources, and protecting the environment.

(b) A citizen or class of citizens may not be granted privileges or immunities not granted on the same terms to all citizens.

Privileges or immunities granted by the Legislature may be altered or revoked.

CA Const. art. I, § 8

A person may not be disqualified from entering or pursuing a business, profession, vocation, or employment because of sex, race, creed, color, or national or ethnic origin.

CA Const., art. VI, §19

The Legislature shall prescribe compensation for judges of courts of record.

A judge of a court of record may not receive the salary for the judicial office held by the judge while any cause before the judge remains pending and undetermined for 90 days after it has been submitted for decision.

US Const., amend. I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

US Const., amend. XIV, §1

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

US Const., art. IV, §2, cl.1

The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.

#### US Const., art. VI

All debts contracted and engagements entered into, before the adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation.

This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.

The Senators and Representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several states, shall be bound by oath or affirmation, to support this Constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

#### Statutes

##### 26 USC §501(c)(3)

(c)List of exempt organizations. The following organizations are referred to in subsection (a):

(3)Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)), and which does not participate in, or



intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

#### 28 USC §1254(1)

(1) By writ of certiorari granted upon the petition of any party to any civil or criminal case, before or after rendition of judgment or decree;

#### 28 USC §1257(a)

(a) Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court by writ of certiorari where the validity of a treaty or statute of the United States is drawn in question or where the validity of a statute of any State is drawn in question on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, or where any title, right, privilege, or immunity is specially set up or claimed under the Constitution or the treaties or statutes of, or any commission held or authority exercised under, the United States.

#### 28 USC §1350

The district courts shall have original jurisdiction of any civil action by an alien for a tort only, committed in violation of the law of nations or a treaty of the United States.

#### 28 USC §1651(a)

(a) The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.

#### 28 USC §2283

A court of the United States may not grant an injunction to stay proceedings in a State court except as expressly authorized by Act of Congress, or where necessary in aid of its jurisdiction, or to protect or effectuate its judgments.

28 USC §2403(b)

(b) In any action, suit, or proceeding in a court of the United States to which a State or any agency, officer, or employee thereof is not a party, wherein the constitutionality of any statute of that State affecting the public interest is drawn in question, the court shall certify such fact to the attorney general of the State, and shall permit the State to intervene for presentation of evidence, if evidence is otherwise admissible in the case, and for argument on the question of constitutionality. The State shall, subject to the applicable provisions of law, have all the rights of a party and be subject to all liabilities of a party as to court costs to the extent necessary for a proper presentation of the facts and law relating to the question of constitutionality.

42 USC §14503(a)(1)

(a) Liability protection for volunteers Except as provided in subsections (b), (c), and (e), no volunteer of a nonprofit organization or governmental entity shall be liable for harm caused by an act or omission of the volunteer on behalf of the organization or entity if—

(1) the volunteer was acting within the scope of the volunteer's responsibilities in the nonprofit organization or governmental entity at the time of the act or omission;

42 USC §14505(4)(B)

(B) any not-for-profit organization which is organized and conducted for public benefit and operated primarily for charitable, civic, educational, religious, welfare, or health purposes and which does not practice any action which constitutes a hate crime referred to in subsection (b)(1) of the first section of the Hate Crime Statistics Act (28 U.S.C. 534 note).

42 USC §2000bb-1(c)

(c) Judicial relief

A person whose religious exercise has been burdened in violation of this section may assert that violation as a claim or defense in a judicial proceeding and obtain appropriate relief against a government. Standing to

assert a claim or defense under this section shall be governed by the general rules of standing under article III of the Constitution.

42 USC §2000cc(a)

(a) Substantial burdens

(1) General rule

No government shall impose or implement a land use regulation in a manner that imposes a substantial burden on the religious exercise of a person, including a religious assembly or institution, unless the government demonstrates that imposition of the burden on that person, assembly, or institution—

(A) is in furtherance of a compelling governmental interest; and

(B) is the least restrictive means of furthering that compelling governmental interest.

(2) Scope of application

This subsection applies in any case in which—

(A) the substantial burden is imposed in a program or activity that receives Federal financial assistance, even if the burden results from a rule of general applicability;

(B) the substantial burden affects, or removal of that substantial burden would affect, commerce with foreign nations, among the several States, or with Indian tribes, even if the burden results from a rule of general applicability; or

(C) the substantial burden is imposed in the implementation of a land use regulation or system of land use regulations, under which a government makes, or has in place formal or informal procedures or practices that permit the government to make, individualized assessments of the proposed uses for the property involved.

47 USC §230(c)(2)

(c) Protection for “Good Samaritan” blocking and screening of offensive material

(1) Treatment of publisher or speaker

No provider or user of an interactive computer service shall be treated as the publisher or speaker of

any information provided by another information content provider.

#### California Civil Code §§ 45, 46

§ 45 LIBEL, WHAT. Libel is a false and unprivileged publication by writing, printing, picture, effigy, or other fixed representation to the eye, which exposes any person to hatred, contempt, ridicule, or obloquy, or which causes him to be shunned or avoided, or which has a tendency to injure him in his occupation.

§ 46 Slander is a false and unprivileged publication, orally uttered, and also communications by radio or any mechanical or other means which:

1. Charges any person with crime, or with having been indicted, convicted, or punished for crime;
2. Imputes in him the present existence of an infectious, contagious, or loathsome disease;
3. Tends directly to injure him in respect to his office, profession, trade or business, either by imputing to him general disqualification in those respects which the office or other occupation peculiarly requires, or by imputing something with reference to his office, profession, trade, or business that has a natural tendency to lessen its profits;
4. Imputes to him impotence or a want of chastity; or
5. Which, by natural consequence, causes actual damage.

#### California Corporations Code §9240

(a) Any duties and liabilities set forth in this article shall apply without regard to whether a director is compensated by the corporation.

(b) Part 4 (commencing with Section 16000) of Division 9 of the Probate Code does not apply to the directors of any corporation.

(c) A director, in making a good faith determination, may consider what the director believes to be:

- (1) The religious purposes of the corporation; and
- (2) Applicable religious tenets, canons, laws, policies, and authority.

(Amended by Stats. 1987, Ch. 923, Sec. 1.4. Operative January 1, 1988, by Sec. 103 of Ch. 923.)

**California Corporations Code §9241**

(a) A director shall perform the duties of a director, including duties as a member of any committee of the board upon which the director may serve, in good faith, in a manner such director believes to be in the best interests of the corporation and with such care, including reasonable inquiry, as is appropriate under the circumstances.

(b) In performing the duties of a director, a director shall be entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, in each case prepared or presented by:

(1) One or more officers or employees of the corporation whom the director believes to be reliable and competent in the matters presented;

(2) Counsel, independent accountants, or other persons as to matters which the director believes to be within that person's professional or expert competence;

(3) A committee upon which the director does not serve that is composed exclusively of any or any combination of directors, persons described in paragraph (1), or persons described in paragraph (2), as to matters within the committee's designated authority, which committee the director believes to merit confidence; or

(4) Religious authorities and ministers, priests, rabbis, or other persons whose position or duties in the religious organization the director believes justify reliance and confidence and whom the director believes to be reliable and competent in the matters presented, so long as, in any case, the director acts in good faith, after reasonable inquiry when the need therefor is indicated by the circumstances, and without knowledge that would cause that reliance to be unwarranted.

(c) The provisions of this section, and not Section 9243, shall govern any action or omission of a director in regard to the compensation of directors, as directors or officers, or any loan of money or property to or guaranty of the obligation of any director or officer. No obligation,

otherwise valid, shall be voidable merely because directors who benefited by a board resolution to pay such compensation or to make such loan or guaranty participated in making such board resolution.

(d) Except as provided in Section 9243, a person who performs the duties of a director in accordance with subdivisions (a) and (b) shall have no liability based upon any alleged failure to discharge his or her obligations as a director, including, without limiting the generality of the foregoing, any actions or omissions which exceed or defeat any purpose to which the corporation, or assets held by it, may be dedicated.

(Amended by Stats. 2009, Ch. 631, Sec. 33. (AB 1233) Effective January 1, 2010.)

#### California Corporations Code §9247

(a) There shall be no personal liability for monetary damages to a third party on the part of a volunteer director or volunteer executive officer of a nonprofit corporation subject to this part, caused by the director's or officer's negligent act or omission in the performance of that person's duties as a director or officer, if all of the following conditions are met:

(1) The act or omission was within the scope of the director's or executive officer's duties.

(2) The act or omission was performed in good faith.

(3) The act or omission was not reckless, wanton, intentional, or grossly negligent.

(4) Damages caused by the act or omission are covered pursuant to a liability insurance policy issued to the corporation, either in the form of a general liability policy or a director's or officer's liability policy, or personally to the director or executive officer. In the event that the damages are not covered by a liability insurance policy, the volunteer director or volunteer executive officer shall not be personally liable for the damages if the board of directors of the corporation and the person had made all reasonable efforts in good faith to obtain available liability insurance.

(b) "Volunteer" means the rendering of services without compensation. "Compensation" means remuneration whether by way of salary, fee, or other consideration for services rendered. However, the payment of per diem, mileage, or other reimbursement expenses to a director or executive officer does not affect that person's status as a volunteer within the meaning of this section.

(c) "Executive officer" means the president, vice president, secretary, or treasurer of a corporation, or other individual serving in like capacity, who assists in establishing the policy of the corporation.

(d) Nothing in this section shall limit the liability of the corporation for any damages caused by acts or omissions of the volunteer director or volunteer executive officer.

(e) This section does not eliminate or limit the liability of a director or officer for any of the following:

(1) As provided in Section 9243 or 9245.

(2) In any action or proceeding brought by the Attorney General.

(f) Nothing in this section creates a duty of care or basis of liability for damage or injury caused by the acts or omissions of a director or officer.

(g) This section is only applicable to causes of action based upon acts or omissions occurring on or after January 1, 1988.

#### California Code of Civil Procedure §410.10

A court of this state may exercise jurisdiction on any basis not inconsistent with the Constitution of this state or of the United States.

#### California Code of Civil Procedure §425.16(b)(1)

(b)(1) A cause of action against a person arising from any act of that person in furtherance of the person's right of petition or free speech under the United States Constitution or the California Constitution in connection with a public issue shall be subject to a special motion to strike, unless the court determines that the plaintiff has

established that there is a probability that the plaintiff will prevail on the claim.

California Code of Civil Procedure §425.16(c)(2)

(2) A defendant who prevails on a special motion to strike in an action subject to paragraph (1) shall not be entitled to attorney's fees and costs if that cause of action is brought pursuant to Section 6259 , 11130 , 11130.3 , 54960 , or 54960.1 of the Government Code. Nothing in this paragraph shall be construed to prevent a prevailing defendant from recovering attorney's fees and costs pursuant to subdivision (d) of Section 6259 , or Section 11130.5 or 54960.5, of the Government Code.

California Code of Civil Procedure §425.17(c)

(c) Section 425.16 does not apply to any cause of action brought against a person primarily engaged in the business of selling or leasing goods or services, including, but not limited to, insurance, securities, or financial instruments, arising from any statement or conduct by that person if both of the following conditions exist:

(1) The statement or conduct consists of representations of fact about that person's or a business competitor's business operations, goods, or services, that is made for the purpose of obtaining approval for, promoting, or securing sales or leases of, or commercial transactions in, the person's goods or services, or the statement or conduct was made in the course of delivering the person's goods or services.

(2) The intended audience is an actual or potential buyer or customer, or a person likely to repeat the statement to, or otherwise influence, an actual or potential buyer or customer, or the statement or conduct arose out of or within the context of a regulatory approval process, proceeding, or investigation, except where the statement or conduct was made by a telephone corporation in the course of a proceeding before the California Public Utilities Commission and is the subject of a lawsuit brought by a competitor, notwithstanding that the conduct or statement concerns an important public issue.



California Code of Civil Procedure §438

(a) As used in this section:

(1) "Complaint" includes a cross-complaint.

(2) "Plaintiff" includes a cross-complainant.

(3) "Defendant" includes a cross-defendant.

(b) (1) A party may move for judgment on the pleadings.

(2) The court may upon its own motion grant a motion for judgment on the pleadings.

(c) (1) The motion provided for in this section may only be made on one of the following grounds:

(A) If the moving party is a plaintiff, that the complaint states facts sufficient to constitute a cause or causes of action against the defendant and the answer does not state facts sufficient to constitute a defense to the complaint.

(B) If the moving party is a defendant, that either of the following conditions exist:

(i) The court has no jurisdiction of the subject of the cause of action alleged in the complaint.

(ii) The complaint does not state facts sufficient to constitute a cause of action against that defendant.

(2) The motion provided for in this section may be made as to either of the following:

(A) The entire complaint or cross-complaint or as to any of the causes of action stated therein.

(B) The entire answer or one or more of the affirmative defenses set forth in the answer.

(3) If the court on its own motion grants the motion for judgment on the pleadings, it shall be on one of the following bases:

(A) If the motion is granted in favor of the plaintiff, it shall be based on the grounds that the complaint states facts sufficient to constitute a cause or causes of action against the defendant and the answer does not state facts sufficient to constitute a defense to the complaint.

(B) If the motion is granted in favor of the defendant, that either of the following conditions exist:

(i) The court has no jurisdiction of the subject of the cause of action alleged in the complaint.

(ii) The complaint does not state facts sufficient to constitute a cause of action against that defendant.

(d) The grounds for motion provided for in this section shall appear on the face of the challenged pleading or from any matter of which the court is required to take judicial notice. Where the motion is based on a matter of which the court may take judicial notice pursuant to Section 452 or 453 of the Evidence Code, the matter shall be specified in the notice of motion, or in the supporting points and authorities, except as the court may otherwise permit.

(e) No motion may be made pursuant to this section if a pretrial conference order has been entered pursuant to Section 575, or within 30 days of the date the action is initially set for trial, whichever is later, unless the court otherwise permits.

(f) The motion provided for in this section may be made only after one of the following conditions has occurred:

(1) If the moving party is a plaintiff, and the defendant has already filed his or her answer to the complaint and the time for the plaintiff to demur to the answer has expired.

(2) If the moving party is a defendant, and the defendant has already filed his or her answer to the complaint and the time for the defendant to demur to the complaint has expired.

(g) The motion provided for in this section may be made even though either of the following conditions exist:

(1) The moving party has already demurred to the complaint or answer, as the case may be, on the same grounds as is the basis for the motion provided for in this section and the demurrer has been overruled, provided that there has been a material change in applicable case law or statute since the ruling on the demurrer.

(2) The moving party did not demur to the complaint or answer, as the case may be, on the same grounds as is the basis for the motion provided for in this section.

(h) (1) The motion provided for in this section may be granted with or without leave to file an amended complaint or answer, as the case may be.

(2) Where a motion is granted pursuant to this section with leave to file an amended complaint or answer, as the case may be, then the court shall grant 30 days to the party against whom the motion was granted to file an amended complaint or answer, as the case may be.

(3) If the motion is granted with respect to the entire complaint or answer without leave to file an amended complaint or answer, as the case may be, then judgment shall be entered forthwith in accordance with the motion granting judgment to the moving party.

(4) If the motion is granted with leave to file an amended complaint or answer, as the case may be, then the following procedures shall be followed:

(A) If an amended complaint is filed after the time to file an amended complaint has expired, then the court may strike the complaint pursuant to Section 436 and enter judgment in favor of that defendant against that plaintiff or a plaintiff.

(B) If an amended answer is filed after the time to file an amended answer has expired, then the court may strike the answer pursuant to Section 436 and proceed to enter judgment in favor of that plaintiff and against that defendant or a defendant.

(C) Except where subparagraphs (A) and (B) apply, if the motion is granted with respect to the entire complaint or answer with leave to file an amended complaint or answer, as the case may be, but an amended complaint or answer is not filed, then after the time to file an amended complaint or answer, as the case may be, has expired, judgment shall be entered forthwith in favor of the moving party.

(i) (1) Where a motion for judgment on the pleadings is granted with leave to amend, the court shall not enter a judgment in favor of a party until the following proceedings are had:

(A) If an amended pleading is filed and the moving party contends that pleading is filed after the time to file

an amended pleading has expired or that the pleading is in violation of the court's prior ruling on the motion, then that party shall move to strike the pleading and enter judgment in its favor.

(B) If no amended pleading is filed, then the party shall move for entry of judgment in its favor.

(2) All motions made pursuant to this subdivision shall be made pursuant to Section 1010.

(3) At the hearing on the motion provided for in this subdivision, the court shall determine whether to enter judgment in favor of a particular party.

#### California Code of Civil Procedure §473(d)

(d) The court may, upon motion of the injured party, or its own motion, correct clerical mistakes in its judgment or orders as entered, so as to conform to the judgment or order directed, and may, on motion of either party after notice to the other party, set aside any void judgment or order.

#### California Code of Civil Procedure §581(i)

(i) No dismissal of an action may be made or entered, or both, under paragraph (1) of subdivision (b) where affirmative relief has been sought by the cross-complaint of a defendant or if there is a motion pending for an order transferring the action to another court under the provisions of Section 396b .

#### California Code of Civil Procedure §581d

A written dismissal of an action shall be entered in the clerk's register and is effective for all purposes when so entered.

All dismissals ordered by the court shall be in the form of a written order signed by the court and filed in the action and those orders when so filed shall constitute judgments and be effective for all purposes, and the clerk shall note those judgments in the register of actions in the case.

#### California Code of Civil Procedure §664.5

(a) In any contested action or special proceeding other than a small claims action or an action or proceeding in which a prevailing party is not represented by counsel, the party submitting an order or judgment for entry shall prepare and serve, a copy of the notice of entry of judgment to all parties who have appeared in the action or proceeding and shall file with the court the original notice of entry of judgment together with the proof of service. This subdivision does not apply in a proceeding for dissolution of marriage, for nullity of marriage, or for legal separation.

(b) Promptly upon entry of judgment in a contested action or special proceeding in which a prevailing party is not represented by counsel, the clerk of the court shall serve notice of entry of judgment to all parties who have appeared in the action or special proceeding and shall execute a certificate of service and place it in the court's file in the cause.

(c) For purposes of this section, "judgment" includes any judgment, decree, or signed order from which an appeal lies.

(d) Upon order of the court in any action or special proceeding, the clerk shall serve notice of entry of any judgment or ruling, whether or not appealable.

(e) The Judicial Council shall provide by rule of court that, upon entry of judgment in a contested action or special proceeding in which a state statute or regulation has been declared unconstitutional by the court, the Attorney General is promptly notified of the judgment and that a certificate of that service is placed in the court's file in the cause.

California Code of Civil Procedure §904.1(a)13

(13) From an order granting or denying a special motion to strike under Section 425.16 .