ORIGINAL

No. 23-1208

In The
SUPREME COURT OF THE UNITED STATES

David (Anh Quan) Do
Petitioner,

vs.

County of Santa Clara,
Respondent

On Petition for Writ of Certiorari
to Court of Appeal of State of California,
Sixth Appellate District

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

Does rule of law exist in California, where the U.S. Constitution is just a piece of paper, statutes are ignored and MOU/CBA/contract is not contract, as far as the County of Santa Clara is concerned?

White-collar exploitation is based on violations of statutes and contract law, fraud in inducement and frauds in factum, latent ambiguity, conversion of temporary work uncertified with end date unspecified into indefinite volunteer work.

Title 5 CFR § 316.401 (b) states that temporary work appointment needs to be certified by supervisor as truly temporary, but not in California?

Title 5 CFR § 316.401 (c) states that temporary work appointment must have specified end date, up to one year at the most, but not in California?

Title 29 CFR § 553.101 (c) states individuals can be volunteers only where their services are offered freely without pressure, but not in California?

Title 29 CFR § 553.102 (a) states that volunteer work similar to employee work at the same public agency is prohibited, but not in California?

MOU/CBA is, once ratified, bona fide contract enforceable against employer, but not in California?

MOU/CBA is contract in purpose & function in the plain language, as a whole, in context, but not in California?

Any latent ambiguity in a MOU/CBA/contract beneficial to drafter (County) requires interpretation against drafter (County), but not in California?

County assumes no obligation to employee who for self-convenience voluntarily reports to other than regularly assigned work location, as per MOU.

Stated otherwise, single clinic coverage is fair consideration; temporary/volunteer work is not.

Can County demand/accept indefinite multiple clinic coverage AND classify it as volunteer work?

As per Civil Grand Jury Report and Response by the Board of Supervisors, the MOU/CBA between the County of Santa Clara and UAPD is but 1 of 18 labor contracts, but in name only?

Can County declare that MOU/CBA/contract is mere agreement or contract in name only, a blatant act of perjury and intentional fraud in court?

Can California courts reject abuse of discretion standard, when it is requested?

Can California courts refuse to apply doctrine of judicial estoppel, when it is applicable?

Can California courts take judicial notice of perjury by Defendant as indisputable truth?

But deny request by Plaintiff for judicial notice of proof of contract from Civil Grand Jury Report?

County's demurrer must accept the truth of all allegations; failure to accept the truth of any one allegation renders it fake, invalid, null & void.

Can California courts sustain fake & invalid demurrers that are null & void? Is it nonsense?

Judicial notice allows for the introduction of evidence that may be in dispute; and the demurrer only tests the legal sufficiency of the complaint.

Is it procedural error to use judicial notice of perjury as indisputable truth to justify nonsense orders to sustain fake, invalid, null & void demurrers so as to deny valid contract claims AND to ignore daily violations of multiple federal and state statutes and Articles 1 & 6 of the U.S. Constitution, violations that are also causes of action in and of themselves?

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PROCEEDINGS

Do v. County of Santa Clara, S283544;
California Supreme Court;
Petition for review denied 3/20/2024.

Do v. County of Santa Clara, H051044;
California Court of Appeals, Sixth Appellate District;
Final judgment entered 1/5/2024.

Do v. County of Santa Clara, 22CV397515;
California Superior Court, Santa Clara County;
Demurrer to Plaintiff's Second Amended Complaint;
Judgment entered 6/27/2023;
Order entered 4/11/2023.

Do v. County of Santa Clara, 22CV397515;
California Superior Court, Santa Clara County;
Demurrer to Plaintiff's First Amended Complaint;
Order entered 10/5/2022.

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PETITION FOR WRIT OF CERTIORARI

Petitioner David (Anh Quan) Do respectfully requests that the U.S. Supreme Court grant a writ of certiorari on the judgment by the California Court of Appeals, Sixth Appellate District on 1/5/2024.

OPINIONS BELOW

The opinions of the lower courts on *Do v. County of Santa Clara* have not been published.

JURISDICTION

Do v. County of Santa Clara, S283544;
California Supreme Court;
Petition for review denied 3/20/2024.

The jurisdiction of the U.S. Supreme Court is invoked under 28 U.S.C. § 1254.

CONSTITUTION & STATUTE PROVISIONS

Article 1 of U.S. Constitution. No State shall... pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts...

Article 6 of U.S. Constitution. This Constitution, and the Laws of the United States... shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby... xiii

Title 5 CFR § 316.401 (b). The supervisor of each position filled by temporary appointment... must certify that employment need is truly temporary...

Title 5 CFR § 316.401 (c). An agency may make a temporary appointment for a specified period not to exceed 1 year...

https://www.ecfr.gov/current/title-5/chapter-I/subchapter-B/part-316/subpart-D/section-316.401

Title 29 CFR § 553.101 (c). Individuals shall be considered volunteers only where... services are offered freely and without pressure or coercion, direct or implied, from an employer.

Title 29 CFR § 553.102 (a). Section 3(e)(4)(A)(ii) of Fair Labor Standards Amendments (1985) does not permit an individual to perform hours of volunteer service for a public agency when such hours involve the same type of services which the individual is employed to perform for the same public agency.

https://www.ecfr.gov/current/title-29/subtitle-B/chapter-V/subchapter-A/part-553/subpart-B

California Government Code § 19080. Whenever an appointing power requires the appointment of a person on a limited term basis, the request for certification shall state the duration of the position.

https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=19080.&lawCode=GOV

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California Government Code § 19080.3. Limited term appointments shall be made only for temporary staffing needs and shall not individually or consecutively exceed one year...

https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV&sectionNum=19080.3.

California Labor Code § 1720.4 (a)(1). An individual shall be considered a volunteer only when their services are offered freely and without pressure and coercion, direct or implied, from an employer.

https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=LAB&sectionNum=1720.4

The **Meyers-Milias-Brown Act** (MMBA) of 1968 or **California Government Code § 3500-3511** governs collective bargaining agreements (CBA) for many public employees in California.

https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=GOV&division=4.&title=1.&part=&chapter=10.&article=

California Government Code § 3505. The governing body of a public agency... shall meet and confer in good faith regarding wages, hours, and other terms and conditions of employment.

"Meet and confer in good faith" means that a public agency... mutual obligation personally to meet and confer... to endeavor to reach agreement on matters within the scope of representation... The process should include adequate time for the resolution of impasses... mutual consent.

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California Government Code 825 and 995 et seq.

https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=825.&lawCode=GOV

... the public entity shall pay any judgment based thereon or any compromise or settlement...

https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=995.&lawCode=GOV

... public entity shall provide for the defense of any civil action or proceeding brought against employee...

STATEMENT OF THE CASE

The 13th Amendment of the U.S Constitution to abolish slavery was officially ratified on 12/6/1865.

Legislation to end military draft was signed on 9/28/1971 and officially announced on 1/27/1973.

The California Supreme Court abrogated the doctrine of ultimate government immunity in 1961 in *Muskopf v. Corning Hospital District.*

California Tort Claims Act of 1963 stated that public entities are liable in tort only to the extent declared by statute, subject to immunities; the Act does not protect public entities from liability based on contract law. (California Government Code § 814)

But white-collar exploitation of employees exists still, in spite of the laws, based on fraud in the inducement and in factum, latent ambiguity and uncertified temporary work with unspecified end date converted into indefinite volunteer work.

Multiple federal and state statutes that define temporary work status and volunteer work status have failed to prevent exploitation by County.

Full-time work at SCC was consideration but temporary work at CVC was indefinite, classified as volunteer work as per MOU/CBA/contract.

Labor Relations' Response on 1/25/2022 claimed that County had inherent ultimate right to maximize productivity without limitations "unless County gave it up, but County did not".

County claimed right to demand multiple clinic coverage on indefinite basis with loss of employee status, loss of malpractice protection, without need for notice, mutual agreement or fair consideration, off the books, to avoid fair consideration, and shift liability.

County's declarations in demurrers that public employment was not based on contract meant failure to acknowledge/affirm that MOU/CBA was bona fide contract in general as per employment, U.S Supreme Court, MMBA, CBA between State & UAPD, and in specific as per County's Brief on Appeal in 1989 in *Smith v. County of Santa Clara* (H004448), County's Labor Relations, and 2016-2017 Santa Clara County Civil Grand Jury Report and Response by County's Board of Supervisors with County Counsel as legal representative and Honorable Patricia M Lucas as Presiding Superior Judge.

County's declaration that public employment was not based on contract, and request to take judicial notice of MOU/CBA/contract as non-contract was blatant act of perjury and intentional fraud.

The doctrine of judicial estoppel was applicable but California courts declined to apply it.

Demurrers must assume/accept <u>all</u> allegations to be true to test legal sufficiency of complaint.

Failure to assume/accept truth of <u>any</u> allegation renders demurrers fake, invalid, null & void.

Orders to sustain null & void demurrers that must be overruled were nonsense regardless of judicial notice, even when interpretation was not in dispute.

It is procedural error to use judicial notice of perjury to justify nonsense orders to sustain invalid null & void demurrers that must be overruled.

Yet California courts took judicial notice of the MOU/CBA/ contract as non-contract using omission of specific words as pretext and perjury to justify orders to sustain null & void demurrers so as to deny valid contract claims and to ignore daily violation of statutes and Articles 1 & 6 of the U.S. Constitution, violations that are also causes of action in and of themselves.

1. EMPLOYMENT ESTABLISHES CONTRACT

Employment relationship establishes contract whether it is written, oral, express or implied, based on many types of law. Employment / labor contract is enforceable against both employer and employees.

2. MOU THAT IS CBA IS BONA FIDE CONTRACT

Interpretation of MOU/CBA is based on the ordinary principles of contract law.
(*M&G Polymers USA, LLC v. Tackett*, 574 US 427, 135 S. Ct. 926 (2015); *CNH Industrial N.V. v. Reese*, No. 17-515, 2018 WL 942419 (2018).

Railway Labor Act of 1926 granting collective bargaining power to railroad workers was amended in 1936 to cover airline workers.

National Labor Relations Act of 1935 granted collective bargaining power to many workers in the private sector. Employer and union must bargain in good faith to achieve labor contract for employees.

Ralph C. Dills Act of 1977 or Government Code Sections 3512-3524 provided that CBA, once ratified by majority of union members, are labor contracts between State and rank-and-file employees.

Legislative Analyst's Office of California has stated that collective bargaining agreements, once approved, become binding contracts.

CBA, once ratified, is labor contract that can be enforced directly by individual employees, with rights no different from other types of contract.
(*H. Blum & Co. v. Landau*, 23 Ohio App. 426, x55 N.E. 154 (1926); *Gulla v. Barton*, 164 App. Div. 293, 149 N.Y. Supp. 952 (1914); *Piercy v. Louisville & N. Ry. Co.*, 198 Ky. 477, 248 S.W. 1042 (1923); *Gregg v. Starks*, 188 Ky. 834, 224 S.W. 459 (1920))

Meyers-Milias-Brown Act of 1968 or California Government Code Sections 3500-3511 gave a large number of public employees the right to use unions to negotiate their MOU/CBA/contracts.

California Government Code § 3505. Duty to meet and confer in good faith means duty to bargain to achieve binding MOU/CBA/contract over terms of employment. (*Glendale City Employees' Assn., Inc. v. City of Glendale* (1975) 15 Cal.3d 328, 336 [124 Cal.Rptr. 513, 540 P.2d 609]).

Duty to bargain means public agency must refrain from implementing unilateral changes in employees' wages and working conditions; this duty continues in effect after expiration of agreement. (*San Joaquin County Employees Assn. v. City of Stockton* (1984) 161 Cal. App. 3d 813, 818-819.

Negotiations between State of California and the unions are to achieve MOU/CBA/contract for 21 bargaining units.

MOU/CBA between State of California and UAPD is labor contract. Fair consideration exists in plain language, as a whole, in context.

3. MOU/CBA/CONTRACT FOR PETITIONER

County Respondent's Brief on 6/5/1989 (that was mislabeled as H004488) in *Smith v. County of Santa Clara* (H004448) did refer to MOU/CBA between County and UAPD as labor contract.

MOU/CBA is written contract between County and Union with terms of employment (new in 2024). https://esa.santaclaracounty.gov/outside-agencies/labor-documents/memoranda-understanding-and-agreement

MOU/CBA between County and UAPD was 1 of 18 labor contracts as per Civil Grand Jury Report, with County Counsel as legal representative.
https://www.scscourt.org/court_divisions/civil/cgj/2017/Performance_Appraisals.pdf

Board of Supervisors agreed to have County Counsel promote Report's recommendations in future contract negotiations, in a letter sent to Honorable Patricia M Lucas, Superior Court Judge.
https://www.scscourt.org/court_divisions/civil/cgj/2017/Responses/Board%20of%20Supervisors%20Response-ToHaveOrHaveNot.pdf

Some MOU may be mere agreement, but MOU between County of Santa Clara and UAPD is ratified collective bargaining agreement and labor contract with terms of employment for P28 employees.
https://files.santaclaracounty.gov/migrated/Union%20of%20American%20Physicians%20and%20Dentists%20(UAPD)%2010-19-20%20-%2010-29-23.pdf

County's deliberate omission of term "collective bargaining agreement" in MOU did not negate fact that MOU with UAPD was in fact CBA.

County's deliberate omission of term "contract" in MOU/CBA did not negate purpose and function of MOU/CBA as bona fide labor contract.

County's omission of term "fair consideration" in MOU/CBA/contract did not negate fact that it was basic element in any and every valid contract.

County's omission of "single clinic coverage" did not negate its existence in the plain language of MOU/CBA/contract, as a whole, in context.

Yet, County Counsel had requested and the California Courts had taken judicial notice of the MOU/CBA/contract as non-contract (perjury).

4. FRAUD IN INDUCEMENT & IN FACTUM

Elements of fraud in the inducement include knowledge of falsity, misrepresentation, intention to defraud, justifiable reliance and damage.

DADS Director was aware of County's hidden business and risk management plan, active since 2005 as per Labor Relations, but did not disclose it to Petitioner in mid-2013 when he accepted full-time job as P28 employee at SCC in San Martin, California.

Petitioner relied on DADS Director's position of authority when he also agreed to provide uncertified temporary work at CVC with unspecified end date.

Certification is required on need, duration and end date of temporary work, as per federal statutes.

Petitioner kept asking for end date to uncertified temporary work at CVC but never got it.

Certification of need for truly temporary work never occurred, a violation of statute (and breach).

Duration and end date of temporary work were never specified, a violation of statute (and breach).

Duration of temporary work longer than 1 year or temporary work after mid-2014 is clear violation of statute (and breach of contract).

Classification of temporary work at CVC as volunteer work is violation of statute (and breach).

Volunteer work at CVC similar to employment work at SCC is violation of statute (and breach).

Petitioner informed SUTS Director Mira Parwiz on 11/1/2021 that he wanted to end uncertified temporary work due to lack of fair consideration.

Temporary work at CVC uncertified with end date unspecified was latent ambiguity for County to obtain multiple clinic coverage off the books.

5. SECTION 6.8 OF MOU/CBA/CONTRACT, QUOTED

When employee is assigned to work at location different from his regularly assigned work location...

Time allotted for travel shall be based on the distance to and from his regular work location or home and the temporary work location...

County assumes no obligation to employee who for self-convenience voluntarily reports to other than the regularly assigned work location.

Section 6.8 had illegal provision on temporary work at other sites, without certification or specified end date, a latent ambiguity that the County used to obtain indefinite work or multiple clinic coverage on permanent basis off the books without notice, mutual agreement, or fair consideration.

Section 6.8 had illegal provision on temporary
7 work being classified by County as volunteer work for which County had no obligation so as circumvent its obligation to provide malpractice protection as per California Government Code 825 et seq. and 995 et seq. and Article 17 of MOU/CBA/contract.

County's deliberate omission of the end date of uncertified temporary work at CVC that was also the start date for volunteer work was latent ambiguity used to avoid fair consideration and to circumvent its obligation to provide malpractice protection.

Latent ambiguity in MOU/CBA/contract that is beneficial to drafter (County) requires interpretation against drafter as per Rule of Contra Proferentem and § 1654 of California Civil Code (Title 3).

Latest end date of temporary work at CVC was mid-2014 or 1 year at the most after the start date in mid-2013, as per federal and state statutes.

County classified Petitioner as a volunteer at CVC even though Petitioner did not volunteer of his own free will, even though the Fair Labor Standards Amendments of 1985 prohibited it.

6. PRINCIPLES OF CONTRACT INTERPRETATION

a. U.S. Dept of Justice Civil Resource Manual Chapter 72

Intention of the parties to a contract controls its interpretation. (*Firestone Tire & Rubber Co. v. US* (1971) 444 F. 2d 547, 551 (Ct. Cl. 1971)).

Contract interpretation begins with the plain language of the contract. (*Gould, Inc. v. US* (1991) 935 F.2d 1271, 1274 (Fed. Cir. 1991))

Interpretation is rejected if it leaves portions of contract language useless, inexplicable, inoperative, meaningless, or superfluous. (*Ball State Univ. v. US* (1973) 488 F .2d 1014 (Ct. Cl. 1973))

Purpose of contract should be viewed as whole and in context. (*Kenneth Reed Constr. Corp. v US* (1973) 475 F.2d 583, 586 (Ct. Cl. 1973))

Reasonableness of contract interpretation is determined by principles of contract construction.

b. Rule of Contra Proferentem

Contract term is ambiguous if more than one meaning is reasonably consistent. (*Grumman Data Sys. Corp. v. Dalton* (1996) 88 F.3d 990, 997).

Latent ambiguity arises where the contract is reasonably but not obviously susceptible of more than one interpretation.

Ambiguous clause should be interpreted against interests of the drafter (County) that introduced, or requested that said clause be included.

Rule of *contra proferentem* applies to construe latent ambiguity against the drafter if non-drafter's interpretation is reasonable and non-drafter relied upon that interpretation. (*Turner Const. Co., Inc. v. US* (2004) 367 F.3d 1319, 1321)

c. Title 3 of California Civil Code § 1635-1655

§1635. All contracts, whether public or private, are to be interpreted by the same rules, except as otherwise provided by this Code.

§1636. A contract must be so interpreted as to give effect to the mutual intention of the parties as it existed at the time of contracting, so far as the same is ascertainable and lawful.

§1637. To ascertain the intention of the parties to a contract, if otherwise doubtful, the rules in this Chapter are to be applied.

§1638. The language of a contract is to govern its interpretation, if the language is clear and explicit and does not involve an absurdity.

§1639. When a contract is reduced to writing, the intention of the parties is to be ascertained from the writing alone, if possible; subject, however, to the other provisions of this Title.

§1640. When, through fraud, mistake, or accident, a written contract fails to express the real intention of the parties, such (real) intention is to be regarded and the erroneous parts... disregarded.

§1641. The whole of a contract is to be taken together so as to give effect to every part... with each clause helping to interpret the other.

§1643. Contract must receive such an interpretation as will make it lawful, operative, definite, reasonable and capable of being carried into effect, if it can be done without violating the intention of the parties.

§1644. The words of a contract are to be understood in their ordinary and popular sense, rather than their strict legal meaning.

§1645. Technical words are to be interpreted as usually understood by persons in the profession or business to which they relate, unless clearly used in a different sense.

§1646. A contract is to be interpreted according to law and usage of place where it is to be performed; or if it does not indicate place of performance, according to law and usage of the place where it is made.

§1647. A contract may be explained by reference to the circumstances under which it was made, and the matter to which it relates.

§1648. However broad may be the term, it extends only to those things concerning which it appears that the parties intended to contract.

§1649. If the term of a promise is ambiguous or uncertain, it must be interpreted in the sense in which the promisor believed, at the time of making it, that the promise understood it.

§1650. Particular clauses of contract are subordinate to its general intent.

§1652. Repugnancy in contract must be reconciled, if possible... as will give some effect to repugnant clauses, subordinate to general intent and purpose of the whole contract.

§1653. Words in a contract wholly inconsistent with its nature or the main intention of the parties are to be rejected.

§1654. In cases of uncertainty not removed by the preceding rules, the language of the contract should be interpreted most strongly against the party (County) who caused the uncertainty to exist.

§1655. Stipulations which are necessary to make a contract reasonable, or comformable to usage, are implied, in respect to matters concerning which the contract manifests no contrary intention.

d. EXPRESSIO UNIUS EST EXCLUSIO ALTERIUS
"Inclusion of One Is Exclusion of The Others"

Syntactical presumption may be made that free parking on weekends and holidays excludes free parking on ordinary weekdays in legal writings.

Syntactical presumption may be made that temporary work excludes indefinite or permanent work in contract interpretation.

Syntactical presumption may be made that the terms and the conditions for employment excludes volunteer work in contract interpretation.

Syntactical presumption may be made that terms and conditions for fair consideration excludes gift in contract interpretation.

Syntactical presumption may be made that single clinic coverage on permanent basis excludes multiple clinic coverage on indefinite basis.

7. SECTION 6.8 OF MOU/CBA/CONTRACT, INTERPRETED
a. Consideration = Regular Work at SCC only
b. Temporary Work at CVC End date = Mid-2014
c. Volunteer Work at CVC Denied by Plaintiff
d. Volunteer Work Prohibited by FLSA of 1985

County's hidden business and risk management plan since 2005 as per Labor Relations' Response was to maximize productivity through multiple clinic coverage on permanent basis off books and gain power to disavow employees at will to avoid the cost of fair consideration and malpractice protection.

Alas, no physician wanted unlimited obligations with high liability in exchange for salary, only to be blamed and disavowed at the first sign of trouble.

Dream of employees was to work at nowhere while having some spending money. Alas, winning the lottery jackpot did not happen and County was not Santa Claus willing to gift.

MOU/CBA was employment contract for unit P28 employees bargained collectively by UAPD and ratified by majority of UAPD members.

Single clinic coverage (regularly assigned site at SCC) was fair consideration; temporary work that became volunteer work was not, as per Section 6.8

Work at SECOND clinic (CVC) can only be on temporary basis of limited duration. Not indefinite basis. Not volunteer. Not gift. Not multiple.

Federal statutes and contract law mandate fair consideration by County for extra work at CVC by Petitioner since mid-2014, if not earlier.

Failure by County to provide fair consideration since mid-2014 if not earlier was violation of multiple statutes and daily breach of contract, wage theft.

8. LABOR RELATIONS CONFIRMED JOB PERFORMANCE
a. Performance = SCC + CVC since Mid-2013
b. Breach = SCC + CVC since Mid-2013

Labor Relations' Step 1 response on 1/25/2022 confirmed that Dr Do's assigned schedule was Mondays Tuesdays Fridays at SCC (6:00 AM to 2:30 PM) and Wednesdays Thursdays at CVC from 6:00 AM to 2:30 PM since mid-2013 (multiple clinic coverage on an indefinite basis ongoing for more than 10.5 years as of 4/2024, off books since mid-2014).

Labor Relations' Step 1 response on 1/25/2022 implied that Dr Do's temporary work and/or volunteer work at CVC since mid-2014 was legal because prior employees did submit to white-collar exploitation.

Breach of contract as cause of action in the First Amended Complaint was based on the incongruence between actual performance (SCC + indefinite CVC) and fair consideration (SCC + temporary CVC) in the contract (and daily violation of multiple statutes).

9. DAILY VIOLATION OF STATUTES SINCE MID-2013
10. DAILY BREACH OF CONTRACT SINCE MID-2013

Temporary work at CVC uncertified is proof of daily violation of Title 5 CFR § 316.401 (b) and California Gov Code § 19080 and breach of contract.

Temporary work at CVC with unspecified end
13 date is proof of daily violation of Title 5 CFR § 316.401
(c) Cal. Gov. Code § 19080.3 and proof of breach.

Temporary work at CVC since mid-2014 or 1 year after hiring in mid-2013 is proof of daily violation of Title 5 CFR § 316.401 (c) Cal. Gov. Code § 19080.3 and proof of breach of contract.

Deliberate classification of work at CVC as volunteer work is proof of daily violation of Title 29 CFR 553.101 (c) Cal. Labor Code § 1720.4 (a)(1) and proof of breach of contract.

Deliberate classification of work at CVC as volunteer work is proof of daily violation of Title 29 CFR § 553.102 or Fair Labor Standards Amendments of 1985 that prohibit volunteer work at CVC similar to employee work at SCC (Congress did not approve of exploitation) and proof of daily breach of contract.

11. OTHER BREACHES OF CONTRACT

Fraud in the inducement occurred in mid-2013 with non-disclosure of County's hidden business plan to induce assent to contract. (Cal. Civ. Code § 1572)

Misrepresentation of material fact, serving as inducement for contract, is sufficient to sustain cause of action alleging fraud. (*Deerfield Communications Corp. v. Chesebrough-Ponds*, 68 N.Y.2d 954, 956; *First Bank of Americas v. Motor Car Funding*, 257 A.D.2d 287, 690 N.Y.S.2d 17).

Where plaintiff alleges misrepresentations of present facts collateral to contract inducing the allegedly defrauded party to enter into contract, the fraudulent inducement claim is not duplicative of the contract claim. (*W.I.T. Holding Corp. v. Klein*, 282 A.D.2d 527, 724 N.Y.S.2d 66 (2nd Dep't 2001)).

Any breach, total or partial, gives injured party the right to compensatory damages. (*Brawley v. J.C. Interiors, Inc.* (2008) 161 Cal.App.4th 1126.)

Punitive damages are recoverable when a breach of contract is also a tort, as per Restatement (Second) of Contracts § 355.

Punitive damages are recoverable when there is intentional fraud. (*Alliance Mortgage Co. v. Rothwell* (1995) 10 Cal.4th 1226, 1241)

Employer may be liable for punitive damages when it had advance knowledge of unfitness of officer, and employed him / her with conscious disregard of the rights of others or authorized or ratified wrongful conduct for which damages are awarded or was personally guilty of oppression, fraud, or malice. (California Civil Code Section 3294 (b))

Breach of contract occurred sometime before 11/1/2021 when Petitioner's full-time employment at SCC was converted into 2 part-time jobs at SCC and CVC without mutual agreement or consideration.

Breach of contract also occurred on 11/1/2021 when SUTS Director refused Petitioner's request to end temporary/volunteer work at CVC and confirmed that multiple clinic coverage was both indefinite and involuntary.

12. GRIEVANCE PROCESS IN MOU/CBA/CONTRACT
a. Issues outside scope of arbitration
b. Doctrine of futility

First were e-mails between Petitioner and the Director of SUTS, Mira Parwiz, on 11/1/2021, who (1) refused to end uncertified temporary work at CVC by declaring that (2) his full-time employment at SCC was converted into 2 part-time jobs at SCC and CVC but without notice, agreement, or fair consideration.

Step 1 grievance was filed on 12/1/2021.

Labor Relations' Response on 1/25/2022 claimed that County had inherent ultimate right to maximize productivity without limitations "unless County gave it up, but County did not".

Labor Relations also implied that uncertified temporary work without end date becoming indefinite volunteer work was legal because prior employees did submit to the white-collar exploitation.

Labor Relations also stated that intention to defraud, liability protection, exploitation, emotional and mental distress, could not be causes of grievance ... and hence not subject to arbitration as per section 13.6 (b) item 4 of MOU/CBA/contract.

It was a pure contract dispute with issues outside the scope of arbitration plus daily violation of statutes; arbitration would have been futile.

Failure to exhaust administrative remedies is excused if it is clear that exhaustion would be futile. (*Jonathan Neil & Assoc., Inc. v. Jones, supra,* 33 Cal.4th at p. 936, 16 Cal.Rptr.3d 849, 94 P.3d 1055; *Honig v. Doe* (1988) 484 U.S. 305, 327, 108 S.Ct. 592, 98 L.Ed.2d 686.)

13. PERB LIMITED TO UNFAIR LABOR PRACTICE (MMBA)

Jurisdiction of Public Employment Relations Board (PERB) is LIMITED to unfair labor practices (aka interference with employee organization rights) as defined by PERB Regulation 32603 related to the Meyers-Milias-Brown Act (MMBA) of 1968.

PERB has jurisdiction only when Petitioner claims that breach of MOU/CBA/contract is also unfair labor practice (violation of the MMBA). (California Government Code 3514.5 (b))

PERB has NO authority to remedy breach of contract unless breach of contract also constitutes unfair labor practice. (*Ronald Willard Weightman v. Los Angeles Unified School District* (2009) or PERB Decision No. 2073)

PERB has NO authority over pure breach of MOU/CBA/contract. (*Nancy A Ridley v. Regents of University of California* (1988) or PERB No. 700-H)

Simple dispute over the meaning of contract language is pure breach of MOU/CBA/contract, not unfair labor practice, not violation of MMBA. (*Davis Professional Firefighters Assn, v. City of Davis* (2016) or PERB No. 2494-M)

There is no unfair labor practice when Petitioner only alleges violation of MOU. (*Olson v. Mountain View School District* (1977) or PERB No. 0017E)

14. COURTS FOR PURE CONTRACT DISPUTE (MOU)

There is no question that the Court can interpret statutes and regulations for labor relations. (*Henning v. Industrial Welfare Commission* (1988) 46 Cal.3d 1262, 1283)

It is well established that public employment does give rise to obligations protected by the Contract Clause, including the right to payment of a salary which has been earned. (*Kern v. City of Long Beach, supra,* 29 Cal. 2d 848, 853 (1947))

Whether an agreement is a valid contract is question for the courts and Supreme Court when the
17 Contract Clause is invoked. (*New Orleans v. New Orleans Water-Works Co.*, 142 US 79 (1891); *Zane v. Hamilton County*, 189 US 370, 381 (1903)).

The union seeks to maximize collective interests not individual interests. The arbitrator has specialized competence but may not be conversant with public law issues that underlie statutory rights. (*Barrentine v. Arkansas-Best Freight System, 450 U.S. 728 (1981))*

The 2nd District Court of Appeal held that union did not waive its members' statutory rights and employees could sue in court. (*Zavala v. Scott Brothers Dairy*, 2006 DJDAR 13130)

15. TIMELINE OF EVENTS AND FILINGS

Date of discovery of breach of contract was 11/1/2021. Date of discovery of fraud in inducement was 1/25/2022.

A cause of action for fraud or mistake is not to be deemed to have accrued until discovery by the aggrieved party of the facts constituting the fraud or mistake. (California Code Civil Procedure § 338 (d))

Statute of limitations for breach of a written contract was 4 years. Deadline to file Claim against County was 1 year. Filing date of Claim against the County was 2/23/2022. County Counsel stated on 3/30/2022 that the Petitioner must file lawsuit within 6 months from 3/30/2022.

The First Amended Complaint was filed on 5/2/2022. The Second Amended Complaint was filed on 10/12/2022. Appellant's Opening Brief was filed on 5/26/2023. Order entered on 4/11/2023 but Judgment to sustain fake invalid null & void demurrer was entered on 6/27/2023, also deemed to be filing date of Plaintiff's Notice of Appeal. Appellant's Reply Brief was filed on 8/30/2023. Petition for review by the California Supreme Court was filed on 2/6/2024.

16. PURE BREACH OF CONTRACT AS CAUSE OF ACTION

First Amended Complaint had only one cause of action; breach of contract was multiple clinic coverage because consideration was single clinic coverage.

Second Amended Complaint had 3 causes of action: 1) Breach of contract on 11/1/2021 when SUTS Director denied request to end temporary / volunteer work at CVC; 2) Breach of contract before 11/1/2021 when County made decision to alter one full-time position at 1 clinic into 2 part-time jobs at 2 clinics; 3) Fraud in the inducement and breach of contract in mid-2013, when DADS Director was aware of County's hidden business and risk management plan, active since 2005, but failed to disclose it, and Petitioner relied on his position of authority to work at CVC.

17. PERJURY AND INTENTIONAL FRAUD BY COUNTY

County Counsel, as legal representative of County and Civil Grand Jury and official drafter and reviewer of MOU/CBA/contract, has claimed that public employment was based on statute and not contract (yet with County in violation of both).

County requested judicial notice of existence of MOU/CBA/contract, a legal action in and of itself, but presented it as a mere agreement based on County's deliberate omission of specific contract words i.e. proof of perjury and intentional fraud.

Every person who... declares, or certifies... as true any material matter which he or she knows to be false, is guilty of perjury. (18 U.S. Code § 1621 and California Penal Code § 118 (a))

19 The Attorney General's Council on White Collar Crime has recommended that perjury be vigorously prosecuted. Perjured testimony is flagrant affront to the basic concepts of judicial proceedings. (*United States v. Mandujano*, 425 U.S. 564, 576 (1976) and *United States v. Wong*, 431 U.S. 174, 180 (1977)

18. DOCTRINE OF JUDICIAL ESTOPPEL, NOT APPLIED

Doctrine of judicial estoppel applies when one party has taken 2 inconsistent positions in judicial or quasi-judicial proceedings; and party was successful in asserting first position; and first position was not taken as result of ignorance, fraud or mistake. *(New Hampshire v. Maine* (2001) 532 U.S. 742; *Jackson v. County of Los Angeles* (1997) 60 Cal. App. 4th 171)

The doctrine of judicial estoppel to protect judicial integrity is applicable and must be applied because County Counsel's position that MOU/CBA is not contract contradicts County's Respondent's Brief in 1989 (mislabeled as H004488) in *Smith v. County of Santa Clara* (H004448), a successful position not taken out of ignorance, fraud or mistake.

The doctrine of judicial estoppel to protect judicial integrity is applicable and must be applied because County Counsel's position that MOU/CBA is not contract contradicts its own work as official drafter and reviewer of MOU/CBA/contracts for County and 2016-2017 Civil Grand Jury Report.

The California courts, however, ignored and did not apply the doctrine of judicial estoppel.

19. JUDICIAL NOTICE, ERRONEOUSLY INTERPRETED, OR 20. PERJURY AS INDISPUTABLE TRUTH

Taking judicial notice of a document is not the same as accepting the truth of its contents or a particular interpretation. (*Middlebrook-Anderson Co. v. Southwest Savings & Loan Assn.* (1971) 18 Cal.App.3d 1023, 1038)

A court may take judicial notice of existence of any document, but can only take judicial notice of truth of facts in documents such as orders, findings of fact, conclusions of law and judgment. (*Ramsden v. Western Union* (1977) 71 Cal.App.3d 873, 879).

Superior Court and Court of Appeal may take judicial notice of existence of MOU/CBA/contract, but NOT County's perjury that MOU/CBA was mere agreement due to County's deliberate omission of specific contract words, because it was contract in purpose & function.

It is error to take judicial notice of an ordinary document submitted in support *or* interpret the terms; a court CANNOT by means of judicial notice convert demurrer into incomplete evidentiary hearing in which the demurring party can present some documentary evidence and opposing party is bound by what that evidence appears to show. (*Fremont Indemnity Co v. Fremont General Corp.* (2007) 148 Cal. App. 4th 97, 115).

Courts COULD NOT by means of judicial notice convert County's fake demurrers into incomplete evidentiary hearings in which County could present MOU/CBA/contract as mere agreement and Petitioner must submit to perjury and intentional fraud.

21. JUDICIAL NOTICE, ERRONEOUSLY REFUSED, OR
22. CIVIL GRAND JURY REPORT, REJECTED

21

As per Rule 201 of Federal Rules of Evidence, the Court may take judicial notice on its own; or must take judicial notice if a party requests it and the Court is supplied with necessary information.

Superior Court of California may but did not take judicial notice on its own of the 2016-2017 Santa Clara County Civil Grand Jury Report, an official act and court record of the State of California, in spite of the fact that a Superior Court judge was involved.

The Court of Appeal must take judicial notice of highly relevant 2016-2017 Santa Clara County Grand Civil Jury Report as requested, as per Rule 201 of Federal Rules of Evidence, California Evidence Code sections 452 (c) (d), 453, and 459, but did not want to acknowledge that MOU/CBA between County and UAPD was labor contract, citing irrelevance!

The 2016-2017 Santa Clara County Civil Grand Jury Report was further proof of perjury and intentional fraud by County; refusal to take judicial notice was proof of complicity by Court of Appeal.

23. FAKE INVALID NULL & VOID DEMURRERS, SUSTAINED (NONSENSE)

Petitioner's complaint was more than adequate and legally sufficient; it was County's demurrer that ignored ALL allegations of violation of multiple statutes AND denied that MOU/CBA was contract.

Plaintiff's complaint is adequate so long as it appraises Defendant of causes of action [regardless of the truth of those allegations]. (*Lim v TV Corp* (2002) 99 Cal. App. 4th 684, 690).

Demurrer tests ONLY legal sufficiency of the complaint. (*Holiday Matinee, Inc. v. Rambus, Inc.* (2004) 118 Cal. App. 4th 1413, 1420).

Demurrer must assume ALL allegations are true; Plaintiff's ability to prove truth does not concern court. (*Committee on Children TV, Inc. v. Gen. Foods Corp.* (1983) 35 Cal. 3d 197, 213 214).

Demurrer is simply not appropriate procedure to determine the truth of disputed facts. (*Ramsden v. Western Union* (1977) 71 Cal.App.3d 873, 879)

Court is to construe ALL allegations in the complaint in favor of Plaintiff. (*Skopp v. Weaver* (1976) 16 Cal. 3d 432; Code Civ. Proc., § 452)

Court may consider all inferences and all material facts in complaint including those arising by reasonable implication. (*Montclair Park Owners v City of Montclair* (1999) 76 Cal. App. 4th 784, 790).

Court is to assume ALL allegations are true and may NOT consider facts asserted in the memorandum

supporting demurrer. (*Afuso v. U.S. Fid. & Guar. Co., Inc.* (1985) 169 Cal. App. 3d 859, 862).

No matter how unlikely or improbable, ALL allegations in complaint must be accepted as true to rule on demurrer. Demurrer may not be turned into a contested evidentiary hearing through the guise of having the court take judicial notice of documents whose truthfulness or proper interpretation are disputable. (*Del E. Webb Corp. v. Structural Materials Co.* (1981) 123 Cal. App. 3d 593, 605)

The SOLE issue raised by general demurrer is whether material facts pled state a valid cause of action, not whether they are true. No matter how unlikely or improbable, ALL allegations must be accepted as true to rule on demurrer. (*Kerivan v. Title Ins. & Trust Co.* (1983) 147 Cal. App. 3d 225, 229).

California Supreme Court has ruled that as long
23 as facts of some valid cause of action is alleged, the complaint is legally sufficient and adequate against general demurrer. It is NOT necessary that cause of action be the one intended. Plaintiff may be mistaken as to nature of case or legal theory on which he can prevail. (*Gruenberg v. Aetna Ins. Co* (1973) 9 Cal. 3d 566, 572,108 Cal. Rptr. 480, 510 P.2d 1032)

County's declaration that public employment was based on statute not contract meant (1) failure to assume and accept that MOU/CBA was contract as pled and (2) failure to assume and accept that it was contract for single clinic coverage as pled.

County's demurrer must assume and accept the truth of ALL allegations, no matter how unlikely or improbable; failure to assume and accept the truth of ANY allegation renders it fake, invalid, null & void.

If MOU/CBA/contract was indeed but a mere agreement, Petitioner would not be filing complaint with pure breach of contract as cause of action.

But MOU/CBA was bona fide labor contract in general as per employment status, U.S. Supreme Court MMBA, MOU/CBA/contract between the State and UAPD and in specific as per County's Brief in *Smith v. County of Santa Clara* (H004448), Labor Relations and the 2016-2017 Civil Grand Jury Report and Response by Board of Supervisors with County Counsel as legal representative and Patricia M Lucas as Presiding Superior Judge.

Yet, Judge Takaichi took judicial notice of the MOU/CBA/contract as mere agreement in County's demurrer to First Amended Complaint.

Yet, Judge Chung declared that it was contract but one in name only, taking judicial notice of the MOU/CBA/contract as mere agreement in County's demurrer to Second Amended Complaint.

Yet, Court of Appeal refused proof of evidence that it was contract, taking judicial notice of the MOU/CBA/contract as mere agreement in the Appeal of Judge Chung's nonsense order to sustain a fake invalid null & void demurrer.

Yet, Judges in the Superior Court ignored and Justices in the Court of Appeal refused request for judicial notice of 2016-2017 Santa Clara County Civil Grand Jury Report to affirm that MOU/CBA between County and UAPD was 1 of 18 labor contracts for more than 23,000 employees.

Judicial notice of MOU/CBA/contract's existence was legal in and of itself but its interpretation as mere agreement or non-contract due to the deliberate omission of specific contract words was perjury by County and complicity by the California courts.

County's demurrers that ignored any one allegation of statute violation or denied breach of contract as pled were fake, invalid, null & void.

Orders to sustain null & void demurrers that must be overruled were nonsense regardless of judicial notice. Oil and water do not mix.

Just as it is nonsense to divide by 0 regardless of one's status as world-class mathematical genius or regular Joe or comatose patient.

Judicial notice allows for the introduction of evidence, but its interpretation can be in dispute; and demurrer only tests legal sufficiency of complaint.

It is procedural error to use judicial notice of perjury to justify nonsense orders to sustain invalid null & void demurrers to deny valid contract claims AND to ignore daily violations of statutes, violations that are also causes of action in and of themselves.

25 But deception and nonsense allowed County to convert uncertified temporary work with unspecified end date at CVC into indefinite volunteer work to avoid fair consideration and liability costs.

24. HONORABLE PATRICIA M LUCAS, CIVIL GRAND JURY

It is reasonable to conclude that Honorable Patricia M Lucas did agree that employment status established contract, that MOU/CBA was bona fide labor contract, that omission of specific contract words did not negate the purpose & function of MOU/CBA as an employment contract, as the Presiding Superior Court Judge of the 2016-2017 Santa Clara County Civil Grand Jury Report.

She would likely agree that latent ambiguity by County required interpretation against County, that single clinic coverage at SCC was consideration for salary and liability protection in plain language as a whole in context, that temporary work at CVC must be certified and duration specified, that work at CVC past one year was not regular employment as per Labor Relations and not volunteer work as per MOU but violation of multiple statutes and breach of contract because Petitioner did not volunteer and the FLSA of 1985 prohibited volunteer work at CVC similar to public employment work at SCC.

She would likely agree that County's claim and judicial notice of the MOU/CBA as non-contract was perjury and intentional fraud and that doctrine of judicial estoppel should have been applied.

She would likely agree that it was procedural error to use judicial notice of perjury as indisputable truth to justify nonsense orders to sustain County's fake, invalid, null & void demurrers so as to negate valid contract claims AND to ignore daily violations of statutes and Article 1 & Article 6 of the Constitution that were also causes of action in and of themselves.

25. JUDGE TAKAICHI, FIRST AMENDED COMPLAINT

Yet, for Judge Takaichi, employment status did not establish contract, MOU/CBA between County and UAPD was mere agreement because of County's deliberate omission of specific contract words, or possibly a gift as salary for working at nowhere; and daily violations of multiple statutes did not matter.

Judge Takaichi endorsed County's failure to acknowledge that MOU/CBA was bona fide contract.

Judge Takaichi took judicial notice of the MOU/CBA/contract as a mere agreement, accepting blatant perjury as indisputable truth.

Judge Takaichi did not apply the doctrine of judicial estoppel to maintain judicial integrity.

Judge Takaichi approved County's failure to accept that MOU/CBA was contract as pled with single clinic coverage as fair consideration as pled, even though acceptance of the truth of ALL allegations was required to rule on demurrers.

It was nonsense for Judge Takaichi to sustain a fake, invalid null & void demurrer that must be overruled AND to ignore statute violations that were also causes of action "because MOU/CBA/contract is not contract so breach of contract is not possible".

It was procedural error to use judicial notice of perjury to justify nonsense orders to sustain invalid null & void demurrers to deny valid contract claims AND to ignore daily violations of statutes, violations that were also causes of action in and of themselves.

26. JUDGE CHUNG, SECOND AMENDED COMPLAINT

Judge Chung did affirm that MOU/CBA was contract but did not apply the doctrine of judicial estoppel even though he was reminded of it; daily violations of statutes also did not matter to him.

He also contradicted himself, taking judicial notice of MOU/CBA as non-contract based on County's deliberate omission of specific contract words.

Judge Chung approved County's failure to accept that single clinic coverage with malpractice protection was fair consideration as pled, even though assumption and acceptance of the truth of ALL allegations was required to rule on demurrers.

It was nonsense for Judge Chung to sustain a fake, invalid null & void demurrer that must be overruled AND to ignore statute violations that were also causes of action because "MOU/CBA/contract is contract in name only, so breach is not possible".

It was procedural error to use judicial notice of perjury to justify nonsense orders to sustain invalid null & void demurrers to deny valid contract claims AND to ignore daily violations of statutes, violations that were also causes of action in and of themselves.

27. THE CALIFORNIA COURT OF APPEAL

When the complaint states a cause of action the "face of the record would show abuse of discretion" in sustaining demurrer without leave to amend. (*Schaake v. Eagle etc. Can Co.*, 135 Cal. 472, 480 [63 P. 1025, 67 P. 759].)

It was not Plaintiff's Complaint lacking a cause of action or needing leave to amend, but County's fake invalid demurrers that must be overruled.

The Court of Appeal did not apply the doctrine of judicial estoppel even though County's perjury that MOU/CBA was not contract stood in contradiction to 2016-2017 Santa Clara County Civil Grand Jury Report and Respondent's Brief in *Smith v. County of Santa Clara* (H004448), a successful position not taken out of ignorance, fraud or mistake.

Judicial notice of MOU/CBA/contract's existence was legal but its interpretation as non-contract due to County's deliberate omission of specific contract words was blatant perjury and intentional fraud.

An appellate court is free itself to take judicial notice of facts the trial court refused to notice or to take judicial notice of contrary facts. (see, e.g., *Denius v. Dunlap*, 330 F.3d 919, 926 [7th Cir. 2003])

The Court of Appeal must yet refused request to take judicial notice of a Civil Grand Jury Report by declaring it to be irrelevant, even though it confirmed that MOU/CBA was contract, a most relevant material fact in a contract dispute! = Proof of complicity.

The Court of Appeal declined to apply abuse of discretion standard as requested on appeal, did not wish to acknowledge that Judge Chung did affirm that MOU/CBA was contract, albeit one in name only.

County's demurrers that ignored allegations of statute violations and denied allegations of breach of contract, were fake, invalid, null & void and must be overruled.

It was nonsense for Court of Appeal to sustain a fake, invalid, null & void demurrer that must be overruled AND to ignore statute violations that were also causes of action, regardless of judicial notice.

Because demurrers test only legal sufficiency of complaint, and judicial notice is evidence, whether true or false. Oil and water do not mix.

It was procedural error to use judicial notice of perjury to justify nonsense orders to sustain County's fake, invalid, null & void demurrers so as to negate valid contract claims and to ignore daily violations of statutes and the U.S. Constitution, violations that were also causes of action in and of themselves.

Daily violations of federal and state statutes were causes of action in and of themselves. They also gave rise to breaches of contract as causes of action.

28. EXAMPLE OF PERVERTED JUDICIAL NOTICE

Dictator tortures Rebel Leader. His dead body is found. People accuse Dictator of murder. Dictator denies complaint, requests judicial notice of video of Rebel Leader while still alive. The court rules that the Rebel Leader is alive, as per video; therefore, murder cannot be cause of action, evidence of torture and corpse notwithstanding.

29. ANALOGY OF FAKE INVALID DEMURRER

Petitioner claims his live plant produces more O2 than other plants. Respondent disagrees and gives Judge T a look-alike plastic plant to test. Fake plant does not produce O2, so Judge T rules that Petitioner has dead plant that does not produce O2. Ruling is nonsense since 1) live plant is alleged and must be accepted as true; 2) O2 production is alleged and must be accepted as true. O2 production is the test but absence of O2 production is due to Respondent's fake plastic plant, not Petitioner's live plant.

30. CASE SUMMARY

Petitioner was hoping for fair compensation for his work, realized at SCC but still expecting at CVC with malpractice protection as per Article 17 of MOU/CBA/contract and California Government Code 825 et seq. and 995 et seq.

County's hidden business & risk management plan was based on fraud in inducement, frauds in factum, latent ambiguity in the MOU/CBA/contract, uncertified temporary work at CVC with unspecified end date turning into indefinite, volunteer work at CVC to avoid fair compensation and to circumvent its obligation to provide malpractice protection.

County has de facto ultimate right or ultimate government immunity that is based on judicial notice of perjury & orders to sustain null & void demurrers to deny valid contract claims AND to ignore violations of statutes and the U.S. Constitution, violations that were also causes of action in and of themselves.

County management's letter on 2/9/2023 that threatened disciplinary action and termination for refusal to resume full load volunteer work at CVC is intentional fraud, retaliation and violation of sections 1102.5 and 1102.6 of the California Labor Code.

31. A COUNTY UNBOUND BY STATUTE OR CONTRACT

The fact that County can classify Petitioner, an employee at SCC, as indefinite volunteer at CVC (to avoid fair consideration, to shift liability) can have negative consequences such as patient safety.

Acutely ill inpatients with opioid use disorder needed methadone to manage withdrawal but, once stabilized, placement at some skilled nursing facility would become a problem for the County.

County's solution was to notify Petitioner that it wanted him to recommend Suboxone to hospitalists for easier patient management after hospital discharge.

Suboxone, a partial agonist, binds to the opioid receptors in the body much more strongly than other opiates but, once bound, is simply not as effective as methadone, a full agonist.

Suboxone can cause precipitated withdrawal and exacerbate the situation, with severe morbidity and even death as a possible consequence.

The County would not have to worry about skilled nursing facility placement when acutely ill inpatients are put on Suboxone.

But physician employees who are classified as indefinite volunteers, such as Petitioner, would be promptly disavowed when accused of homicide.

32. REASONS FOR GRANTING THE PETITION

The rule of law is the bedrock of human rights and democracy; the U.S. Supreme Court must enforce it when there is blatant disregard for the law.

2.6 million public employees in California need statutes and MOU/CBA/contract law for protection.

39 million people in California have the right to County doctors with appropriate liability protection as per state statute and MOU/CBA/contract.

The U.S. government has right to collect income tax from employees, not indefinite volunteers.

The Rule of Law is comprised of 4 principles: 1) accountability, even by the government; 2) laws that are fair, stable and publicized; 3) a legal process that is robust, accessible and fair; 4) judges and lawyers who are competent, and ethical.

No officer of the law may set it at defiance with impunity. All officers of the government are its creatures and are bound to obey it. (*United States v. Lee*, 106 U.S. 196 (1882))

33. CONCLUSION

MOU/CBA between County of Santa Clara and UAPD is contract for single clinic coverage (SCC) in consideration of salary and malpractice protection.

Temporary work at CVC uncertified without specified end date turning into indefinite volunteer work as per MOU is proof of intentional violation of federal and state statutes and breach of contract.

County's request for judicial notice of contract as non-contract is perjury and intentional fraud.

California Courts' acceptance of judicial notice of perjury as indisputable truth and refusal to accept proof of contract in Civil Grand Jury Report is not rule of law but a perversion of it.

County's demurrers that failed to accept the truth of all material allegations in the complaint are fake, invalid, null & void.

Court orders to sustain fake, invalid, null & void demurrers that must be overruled are nonsense.

It is procedural error to use judicial notice of perjury as truth to justify nonsense court orders to sustain fake, invalid, null & void demurrers so as to deny valid contract claims AND to ignore violations of multiple federal and state statutes and Article 1 and Article 6 of the U.S. Constitution, violations that are also causes of action in and of themselves.