APPENDICIES

Appendix A: California Supreme Court Denial of Petition for Review

SUPREME COURT
FILED
JUN 10 2026
Jorge Navarrete Clerk
Deputy

Court of Appeal, Sixth Appellate District - No. H053015

S296133

IN THE SUPREME COURT OF CALIFORNIA

En Banc

MICHAEL RYAN: HOLDEN KLINGLER, Plaintiff and Appellant,

v.

SALINAS UNION HIGH SCHOOL DISTRICT, Defendant and Respondent.

The petition for review is denied.

GUERRERO
Chief Justice

Appendix B: California 6th District Appellate Court Denial of Petition for Reconsideration

Court of Appeal, Sixth Appellate District
Baltazar Vazquez, Clerk/Executive Officer
Electronically FILED on 3/24/2026 by I. Ochoa, Deputy Clerk

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SIXTH APPELLATE DISTRICT

MICHAEL RYAN: HOLDEN KLINGLER,
Plaintiff and Appellant,
v.
SALINAS UNION HIGH SCHOOL DISTRICT,
Defendant and Respondent.

H053015
Monterey County Super. Ct. No. 22CV002775

BY THE COURT*:

Appellant's petition for rehearing is denied.

Date: 03/24/2026 Acting P.J.

Before Grover, Acting P.J., Danner, J., and Kulkarni, J.

* Judge of the Santa Clara County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Appendix C: California 6th District Appellate Court Denial of Appeal

ORIGINAL

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SIXTH APPELLATE DISTRICT

RE: MICHAEL RYAN: HOLDEN KLINGLER,
Plaintiff and Appellant,
v.
SALINAS UNION HIGH SCHOOL DISTRICT,
Defendant and Respondent.

H053015
Monterey County Super. Ct. No. 22CV002775

*** * REMITTITUR * ***

I, Baltazar Vazquez, Clerk of the Court of Appeal of the State of California, for the Sixth Appellate District, do hereby certify that the attached is a true and correct copy of the original opinion or decision entered in the above-entitled cause on March 4, 2026, and that this decision has now become final.

____ Appellant ___X___ Respondent to recover costs
____ Each party to bear own costs
____ Costs are not awarded in this proceeding
____ See decision for costs determination

Witness my hand and the seal of the Court affixed at my office on June 11, 2026.



BALTAZAR VAZQUEZ
Clerk/Executive Officer

By: I. OCHOA
Deputy Clerk

Filed 3/4/26

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SIXTH APPELLATE DISTRICT

MICHAEL RYAN: HOLDEN KLINGLER, Plaintiff and Appellant, v. SALINAS UNION HIGH SCHOOL DISTRICT, Defendant and Respondent.	H053015 (Monterey County Super. Ct. No. 22CV002775)

Plaintiff and appellant Michael Ryan: Holden Klingler appeals from the trial court's August 2024 order denying his non-statutory motion to vacate the judgment in this case. Acknowledging that such motions are generally non-appealable, Mr. Klingler contends the judgment in this action is void, which would make the August 2024 order appealable. We conclude Mr. Klingler has not met his burden to show that the judgment is void. Accordingly, we dismiss the appeal because the August 2024 order is not appealable.

I. BACKGROUND[1]

In September 2022, Mr. Klingler filed a verified "Petition For Relief." He alleges that he contracted with defendant and respondent Salinas Union High School District (the

[1] This appeal arises from the denial of a motion to vacate a judgment following the sustaining of a demurrer without leave to amend. Accordingly, we take the facts from

District) in June 2018 to become a mathematics teacher for the District. Initially, he refused to submit a Social Security card, but later did so after the assistant superintendent of personnel threatened to withdraw the job offer unless Mr. Klingler submitted various tax-related federal forms. Mr. Klingler alleges that on the original forms he filled out, he wrote "[t]his form does not apply to me," which, according to him, shows he did not request that his pay be subject to withholding.

Mr. Klingler further alleges that he does not believe any language exists in the federal Internal Revenue Code or the Revenue and Taxation Code that subjects him to taxation. He first attempted to address the issue of taxation with the federal Internal Revenue Service and the Franchise Tax Board, but then decided to raise the issue with the District. Mr. Klingler provided the District with a "Notice of Misapplication." The District responded by asserting that Mr. Klingler's contract is subject to state and federal income taxation. The District has continued to withhold some of Mr. Klingler's pay for state and federal taxes.

Mr. Klingler's petition sets forth two separate "primary right theory" claims. In January 2023, the District filed a demurrer to both claims in the verified petition, arguing these claims did not state sufficient facts to constitute a valid cause of action. The District argued that Mr. Klingler's claims were statutorily barred under federal and California law, and that the District was immune from liability. The District asserted that Mr. Klingler's pay is subject to taxes and that the District is legally required to withhold those taxes. Mr. Klingler opposed the demurrer, arguing that the District failed to establish a duty to withhold and report taxes because it did not "state a *bona fide* federal income tax that subjects [his] contract to federal income tax law."

Mr. Klingler's verified petition. (See *Stevenson v. Superior Court* (1997) 16 Cal.4th 880, 885 ["Because this matter comes to us on demurrer, we take the facts from plaintiff's complaint, the allegations of which are deemed true for the limited purpose of determining whether [the] plaintiff has stated a viable cause of action. [Citation.]"].)

Following a March 2023 hearing, the trial court issued an order in which it stated the District had "clearly identified the laws that subject [Mr. Klingler] to federal, state and Medicare tax liability." The court sustained the demurrer without leave to amend. Mr. Klingler moved for reconsideration, which the trial court denied in May 2023. In July 2023, the court formally dismissed Mr. Klingler's action with prejudice.

In May 2024, Mr. Klingler filed a motion to vacate the trial court's orders on the demurrer, motion for reconsideration, and dismissal of the petition, arguing the orders were void. In opposition, the District contended the motion was untimely and therefore the court had no jurisdiction to rule on it. Mr. Klingler clarified in his reply that he was moving to vacate the orders under the court's "*inherent power*, and not by *statutory authority*." He argued his motion was timely because the orders were void and could be set aside at any time.

The trial court heard Mr. Klingler's motion to vacate in August 2024 and denied it as untimely. The court did so through a minute order; it did not issue a separate written order. In February 2025, Mr. Klingler filed a notice of appeal of the trial court's order denying the motion to vacate the dismissal of the petition.[2]

II. DISCUSSION[3]

A. *Legal Principles Concerning Appealability*

"A reviewing court has jurisdiction over a direct appeal only when there is (1) an appealable order or (2) an appealable judgment. [Citations.]" (*Griset v. Fair Political*

[2] In the August 2024 minute order, the trial court also denied as untimely Mr. Klingler's motion for judicial notice supporting his motion to vacate. Mr. Klingler timely appealed that order as well.

[3] Mr. Klingler filed a request for judicial notice of a variety of case law, statutes, regulations, and rules of court. He also requests judicial notice of certain "facts" regarding instructions on various tax forms. Judicial notice of these items is unnecessary as Mr. Klingler can (and does) cite to the case and statutory authorities in his brief and other items can be cited to in the record to the extent they were considered in the trial court. (*Quelimane Co. v. Stewart Title Guaranty Co.* (1998) 19 Cal.4th 26, 45, fn. 9 ["A request for judicial notice of published material is unnecessary. Citation to the material is

Practices Com. (2001) 25 Cal.4th 688, 696.) "A trial court's order is appealable when it is made so by statute. [Citations.]" (*Ibid.*)

"[A]n order denying a motion to vacate a judgment is generally not appealable; otherwise, an appellant would receive 'either two appeals from the same decision, or, if no timely appeal has been made, an unwarranted extension of time in which to bring the appeal.' [Citation.]" (*Carlson v. Eassa* (1997) 54 Cal.App.4th 684, 690 (*Carlson*).) However, "an exception to this general rule applies when the underlying judgment is void. In such a case, the order denying the motion to vacate is itself void and appealable because it gives effect to a void judgment." (*Id.* at p. 691.)

"A judgment is void if the court rendering it lacked subject matter jurisdiction or jurisdiction over the parties. Subject matter jurisdiction 'relates to the inherent authority of the court involved to deal with the case or matter before it.' [Citation.] Lack of jurisdiction in this 'fundamental or strict sense means an entire absence of power to hear or determine the case, an absence of authority over the subject matter or the parties.' [Citation.]" (*Carlson, supra*, 54 Cal.App.4th at p. 691.) "[L]ack of jurisdiction also exists when a court grants 'relief which [it] has no power to grant.' [Citations.] Where, for instance, the court has no power to act 'except in a particular manner, or to give certain kinds of relief, or to act without the occurrence of certain procedural prerequisites,' the court acts without jurisdiction in this broader sense. [Citation.]" (*Ibid.*)

Stated slightly differently, "[l]ong-standing Supreme Court precedent dictates that 'a judgment is not void if the court has jurisdiction of the parties and of the subject matter, irrespective of whether or not the complaint states a cause of action so long as it

---

sufficient."]; see also *Padilla v. City of San Jose* (2022) 78 Cal.App.5th 1073, 1078, fn. 2 [judicial notice may be denied where it is "duplicative and unnecessary to resolving the appeal"].) We therefore deny Mr. Klingler's request.

apprises the defendant of the nature of the plaintiff's demand.' [Citations.]" (*First American Title Ins. Co. v. Banerjee* (2022) 87 Cal.App.5th 37, 44 (*Banerjee*).)

Whether a judgment is void is a question of law, which we review de novo. (*Nixon Peabody LLP v. Superior Court* (2014) 230 Cal.App.4th 818, 822.)

B. *The Order on the Motion to Vacate is not Appealable*

As a threshold issue, we must determine whether the trial court's August 2024 order denying Mr. Klingler's motion to vacate the judgment is appealable. The District argues the order is not appealable because it is a non-statutory motion to vacate. Mr. Klingler acknowledges this general rule, but nonetheless contends he can appeal the order because the underlying judgment is void on its face.

We first note that the trial court's dismissal of Mr. Klingler's petition is considered by law to be a "judgment." (Code Civ. Proc., § 581d ["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."].) So that leaves the question of whether the court's dismissal of the petition was void.

As discussed above, " '[a] judgment is void on its face if the court which rendered the judgment lacked personal or subject matter jurisdiction or exceeded its jurisdiction in granting relief which the court had no power to grant. [Citations.]' [Citation.]" (*Carr v. Kamins* (2007) 151 Cal.App.4th 929, 933.) It does not appear that the trial court lacked personal or subject matter jurisdiction over his claims, nor does Mr. Klingler argue as much. Nor does he claim that his petition failed to apprise the District of the nature of his demand. (See *Banerjee, supra*, 87 Cal.App.5th at p. 44.) In addition, Mr. Klingler asks that we "instruct the trial court to order [the District] to cease reporting and withholding and to correct the tax record." Thus, Mr. Klingler implicitly concedes that the trial court can grant relief if his claims are meritorious. (See *Adoption of Matthew B.* (1991) 232 Cal.App.3d 1239, 1269 (*Matthew B.*) ["Where a court has subject matter jurisdiction, a

party's request for or consent to action beyond the court's statutory power may estop the party from complaining that the court's action exceeds its jurisdiction. [Citation.]"].)

Instead, Mr. Klingler's arguments concerning voidness go to the substantive merits of his claims. He contends "all prejudgment orders, the judgment, and the post judgment order awarding costs, are void on their face, null, in so far as they rely on [the District's] authorization and legal requirement to withhold state and federal income taxes from [Mr. Klingler's] pay . . . ." He later argues that "[w]ith no apparent basis in law and the order in direct conflict with the law governing [Mr. Klingler's] motion, the order denying [Mr. Klingler's] motion to vacate is absent jurisdiction and void."

Mr. Klingler goes on to contend that the trial court's misapplication of certain case and statutory authorities makes the judgment void. For example, he asserts a statement made in the case of *Parker v. Commissioner* (5th Cir. 1984) 724 F.2d 469, 471, regarding the holding of an older Supreme Court case "is contrary to established Supreme Court precedent, and consequently void on its face." Expressing his disagreement with the cases of *United States v. Lund* (D.Or. 2012) 2012 U.S.Dist.LEXIS 16154, *11, *Wilcox v. Commissioner* (9th Cir. 1988) 848 F.2d 1007, 1008, footnote 2, and *United States v. Nelson* (*In re Becraft*) (9th Cir. 1989) 885 F.2d 547, 548, each of which held that the Sixteenth Amendment of the United States Constitution authorizes a direct non-apportioned income tax on resident United States citizens, Mr. Klingler states that "[t]he trial court's assertion [his] pay is subject to [Internal Revenue Code section] 1 based on this law is just another branch added to the same debunked and void theory of law." Similarly, he states that "[t]he application of [Revenue and Taxation Code section 17041] to [his] pay is void of authority" and that the trial court's application of Internal Revenue Code section 3403 "outside the authorization of the text . . . is void."[4]

[4] Internal Revenue Code section 3403 states that "[t]he employer shall be liable for the payment of the tax required to be deducted and withheld under this chapter [26 U.S.C.

In short, Mr. Klingler's argument seems not to be that the trial court lacked jurisdiction to hear the matter, but only that it had no jurisdiction to rule unfavorably to him by relying on cases he believes were incorrectly decided. But his argument is simply a disagreement about the application of the law to his allegations, not about jurisdiction. "Once a court has established its power to hear a case, it may make errors with respect to areas of procedure, pleading, evidence, and substantive law. [Citations.]" (*In re Marriage of Goddard* (2004) 33 Cal.4th 49, 56.) Such errors are nonjurisdictional. (*Armstrong v. Armstrong* (1976) 15 Cal.3d 942, 950-951 ["The error of which plaintiffs in this case complain does not reach the *power* of the court to act, but concerns instead a mistaken application of law."].) Thus, even if we were to conclude the trial court made an error in applying the substantive law, it would not result in a void judgment based on lack of jurisdiction.[5] (See *Matthew B.*, *supra*, 232 Cal.App.3d at p. 1268 ["That the trial court may have wrongly decided the matter does not defeat or limit its jurisdiction or affect the validity or the finality of its judgment."].)

Mr. Klingler has not met his burden to show that the trial court's dismissal of his petition was void. This, in turn, means that the court's August 2024 order denying his motion to vacate the dismissal is not appealable. We therefore dismiss Mr. Klingler's appeal.

III. DISPOSITION

Mr. Klingler's appeal is dismissed. Costs on appeal are awarded to the District. (Cal. Rules of Court, rule 8.278(a)(1).)

---

§§ 3401 et seq.], and shall not be liable to any person for the amount of any such payment." (26 U.S.C. § 3403.)

[5] We acknowledge Mr. Klingler's sincere belief that he does not have to pay federal income taxes. We, however, have no need to, and do not, reach any conclusion that the trial court erred in its analysis on this issue.

KULKARNI, J.*

WE CONCUR:

GROVER, ACTING P.J.

DANNER, J.

Klingler v. Salinas Union High School District

H053015

* Judge of the Santa Clara County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Appendix D: California Superior Court of Monterey Denial of Motion to Vacate and Motion for Judicial Notice

Superior Court of California, County of Monterey
MINUTE ORDER

Michael Klingler
vs.
SALINAS UNION HIGH SCHOOL DISTRICT
22CV002775
Date of Hearing: 08/30/2024

8:30 AM Hearing: Motion

Heard By: Honorable Vanessa W. Vallarta
Courtroom Reporter: Not Reported

Location: Department 13A
Courtroom Clerk: Erika Dunn

Parties Present:

Klingler, Michael Ryan	Petitioner
Holden	
Lucido, Marco A.	Attorney for Defendant

Case is regularly called for Plaintiff's Motion to take Judicial Notice in Support of Special Motion to Vacate Orders and of the Court with Exhibits; Plaintiff's Special Motion to Vacate Orders of the Court.

The Court states her tentative ruling for the parties.

Arguments presented by Plaintiff.

The Court finds that the Motion for Judicial notice is denied as untimely.

The Court denies the Special Motion to vacate orders as untimely.

No order is needed for this hearing, per Judge Vanessa W. Vallarta.

08/30/2024 Hearing: Motion - 22CV002775 Page 1 of 1

Appendix E: California Superior Court of Monterey Dismissal of Verified Complaint

ANDREW B. KREEFT (SBN 126673)
MARCO A. LUCIDO (SBN 322203)
FENTON & KELLER
2801 Monterey-Salinas Highway
Post Office Box 791
Monterey, California 93942-0791
Telephone: (831) 373-1241
Facsimile: (831) 373-7219
Email: akreeft @fentonkeller.com
Email: mlucido@fentonkeller.com

Attorneys for Defendant
SALINAS UNION HIGH SCHOOL DISTRICT

Exempt from Filing Fees (Gov. Code § 6103)

ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 07/10/2023
By Deputy: Meraz, Jackie

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF MONTEREY

MICHAEL RYAN: HOLDEN KLINGLER, Plaintiff, v. SALINAS UNION HIGH SCHOOL DISTRICT, Defendant.	CASE NO.: 22CV002775 ~~[PROPOSED]~~ **ORDER DISMISSING PLAINTIFF'S VERIFIED COMPLAINT** Date of Filing: September 19, 2022 Trial Date: None Set

Defendant Salinas Union High School District's ("Defendant") motion for an order to dismiss this action came on regularly for hearing in Department 13A of this Court June 30, 2023. Marco Lucido appeared on behalf of Defendant. Plaintiff did not appear pro se but submitted a letter to the Court and counsel on June 29, 2023 indicating that he could not appear at the hearing but did not oppose Defendant's motion to dismiss.

It appearing from the records and file herein that (1) on March 30, 2023, this Court SUSTAINED Defendant's Demurrer to Plaintiff's Complaint without leave to amend, and DENIED Plaintiff's Request for Injunctive Relief, and (2) on May 19, 2023, this Court DENIED Plaintiff's motion to reconsider the order dated March 30, 2023.

//

THEREFORE, IT IS ORDERED that:

1. The above-entitled action be, and it hereby is, dismissed with prejudice. **(CCP 581(f)(1).)**

2. Defendant is awarded its allowable pre-judgment costs, which shall be determined in accordance with its Memorandum of Costs.

IT IS SO ORDERED.

Dated: July 7, 2023

Hon. Vanessa W. Vallarta
JUDGE OF THE SUPERIOR COURT

Appendix F: California Superior Court of Monterey Denial of Motion for Reconsideration and Respondent's Opposition

ANDREW B. KREEFT, ESQ (SBN 126673)
MARCO A. LUCIDO, ESQ (SBN 322203)
FENTON & KELLER
2801 Monterey-Salinas Highway
Post Office Box 791
Monterey, California 93942-0791
Telephone: (831) 373-1241
Facsimile: (831) 373-7219
Email: akreeft @fentonkeller.com
Email: mlucido@fentonkeller.com

Attorneys for Defendant
SALINAS UNION HIGH SCHOOL DISTRICT

Exempt from Filing Fees (Gov. Code § 6103)

ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 05/22/2023
By Deputy: Cerna, Brenda

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF MONTEREY

MICHAEL RYAN: HOLDEN KLINGLER, Plaintiff, v. SALINAS UNION HIGH SCHOOL DISTRICT, Defendant.	CASE NO.: 22CV002775 **~~[PROPOSED]~~ ORDER DENYING PLAINTIFF'S MOTION FOR RECONSIDERATION** Date of Filing: September 19, 2022 Trial Date: None Set

Defendant Salinas Union High School District's ("Defendant") motion to reconsider the Court's order dated March 30, 2023 came on regularly for hearing in Department 13A of this Court on May 19, 2023 Plaintiff appeared pro se. Marco Lucido appeared on behalf of Defendant.

Having read and considered Plaintiff's motion, the memoranda filed by the parties, and having heard argument of Plaintiff and counsel for Defendant, and good cause appearing therefore,

//

//

//

IT IS ORDERED that Plaintiff's motion for reconsideration is DENIED.

Dated: May 22, 2023

Hon. Vanessa W. Vallarta
JUDGE OF THE SUPERIOR COURT

ANDREW B. KREEFT, ESQ. (SBN 126673)
MARCO A. LUCIDO, ESQ. (SBN 322203)
FENTON & KELLER
2801 Monterey-Salinas Highway
Post Office Box 791
Monterey, California 93942-0791
Telephone: (831) 373-1241
Facsimile: (831) 373-7219
Email: akreeft @fentonkeller.com
Email: mlucido@fentonkeller.com

Attorneys for Defendant
SALINAS UNION HIGH SCHOOL DISTRICT

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF MONTEREY

MICHAEL RYAN: HOLDEN KLINGLER,

Plaintiff,

v.

SALINAS UNION HIGH SCHOOL DISTRICT,

Defendant.

CASE NO.: 22CV002775

DEFENDANT SALINAS UNION HIGH SCHOOL DISTRICT'S OPPOSITION TO PLAINTIFF'S MOTION FOR RECONSIDERATION

Date: May 19, 2023
Time: 8:30 am
Dept.: 13A

Date of Filing: September 19, 2022

Trial Date: None Set

I. INTRODUCTION

The Court heard the District's Demurrer and plaintiff's Request for Injunctive Relief on March 17, 2023. On March 30, 2023, the Court sustained the District's Demurrer without leave to amend and denied plaintiff's request for injunctive relief. By this motion, plaintiff claims that the Court misinterpreted the law. Plaintiff is wrong, and his claim is not supported by any new or different facts or law. Accordingly, plaintiff's motion should be denied.

The District filed a motion to dismiss under Code of Civil Procedure section 581(f)(1) concurrently herewith. The District respectfully requests that the Court deny plaintiff's motion for reconsideration at this hearing, and grant the District's motion to dismiss at a later hearing.

II. LEGAL ARGUMENT

A. Plaintiff's Motion Fails Because His Attempt To Re-Argue The Same Law Is Improper And Does Not Constitute A "New" or "Different" Matter.

Plaintiff's motion for reconsideration fails because there exists no new or different facts or law for the Court to reconsider. A motion for reconsideration must be based upon "new or different facts, circumstances, or law." (Code Civ. Proc. § 1008(a).) Motions for reconsideration are limited to circumstances where a party offers the court some fact or circumstance not previously considered *and some valid reason for not offering it earlier.* (*Gilberd v. AC Transit* (1995) 32 Cal.App.4th 1494, 1500; *Garcia v. Hejmadi* (1997) 58 Cal.App.4th 674, 690 [holding that a motion for reconsideration requires a satisfactory explanation for failing to present the information at the first hearing].) Reconsideration cannot be granted based on claims the court misinterpreted the law in its initial ruling (as opposed to a change in the law in the interim) because that does not constitute a "new" or "different" matter. (*Gilberd, supra,* 32 Cal.App.4th at 1500.) Here, plaintiff's motion is based on his claim that the Court misinterpreted the law. Reconsideration cannot be granted on this basis, and the Court properly rejected plaintiff's legal arguments, which either misconstrue the applicable law or rely on inapplicable law. Moreover, to the extent plaintiff cites to new law or makes new arguments, he fails to offer a valid reason for not citing to the law earlier, and even if he did, no law supports plaintiff's claim that his income is not subject to taxation.[1] Accordingly, and even if the Court grants plaintiff's Request for Additional Judicial Notice, plaintiff's motion for reconsideration fails.

//

//

//

[1] By his motion for reconsideration, plaintiff claims that 26 CFR §1.1-1(a)(1) improperly imposes a tax on citizens or residents of the United States because 26 U.S.C. § 1 does not include language regarding citizens or residents of the United States. (Plaintiff's Motion for Reconsideration at 3:15-18.) Plaintiff is wrong, and the law is clear that 26 U.S.C. § 1 authorizes income taxes on citizens or residents of the United States. (*Wilcox v. Comm'r* (9th Cir. 1988) 848 F.2d 1007, 1008 n. 3; *United States v. Nelson* (9th Cir. 1989) 885 F.2d 547, 548; *United States v. Lund* (Dist. OR 2012) 2012 U.S.Dist.LEXIS 16154, at *11.) Accordingly, and consistent with its legal obligations, the District is properly withholding applicable federal and California taxes from plaintiff's compensation with the District.

Appendix G: California Superior Court of Monterey Order After Hearing on Defendant's Demurrer (The Judgment)

ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 03/30/2023
By Deputy: Gebin, May

SUPERIOR COURT OF CALIFORNIA

COUNTY OF MONTEREY

MICHAEL RYAN: HOLDEN KLINGER, Plaintiff, vs. SALINAS UNION HIGH SCHOOL DISTRICT, Defendant.	22CV002775 **ORDER AFTER HEARING ON DEFENDANT'S DEMURRER**

Defendant SALINAS UNION HIGH SCHOOL DISTRICT's Demurrer to Plaintiff MICHAEL RYAN: HOLDEN KLINGER's Verified Petition for Relief (the Complaint) came on for hearing on March 17, 2023 in Department 13 of this Court. Plaintiff appeared pro se. Marco Lucido appeared on behalf of Defendant.

Plaintiff is currently employed with the District as a high school math teacher. The District currently withholds federal and California taxes from Plaintiff's compensation and Plaintiff believes that the District cannot withhold these taxes from his pay because he is exempt from these taxes.

A. ***Request for Judicial Notice***

Plaintiff filed a "Notice for Motion and Motion for Judicial Notice" on February 27, 2023, a total of 93 pages. The identical document was refiled on March 13, 2023.

To the extent that Plaintiff is requesting judicial notice of the laws and cases of this state and country, such notice is GRANTED under provisions of Evidence Code §§ 451 and 452, but judicial notice is denied as to all of Plaintiff's commentary and arguments regarding these laws.

B. ***Meet and Confer***

The declaration of attorney Andrew Kreeft, filed January 10, 2023, evidences that the parties met and conferred several times prior to the filing of the demurrer as required by Code of Civil Procedure section 430.41. The parties were unable to come to an informal resolution.

C. ***Demurrer***

Plaintiff asserts two causes of action, both titled as "Primary Right Theory". (*See* Petition filed 9/19/2022.) Plaintiff asserts that the District must stop withholding federal and California income taxes and Medicare taxes from his pay due to their failure to identify the specific laws authorizing such withholding. (*See e.g.*, Complaint at ¶¶22-23, 27(A-C), 38, 44, 111(A-C), 126.) Defendant demurs to both causes of action on the basis that they each fail to state facts sufficient to state a cause of action.

(1) ***Legal Standard***

A demurrer "tests the pleading alone and not the evidence or other extrinsic matters which do not appear on the fact of the pleading or cannot be properly inferred from the factual allegations of the complaint." (*Executive Landscape Corp. v. San Vicente Country Villas IV Assn.* (1983) 145 Cal.App.3d 496, 499.) When considering a demurrer, a reviewing court should "treat the demurrer as admitting all material facts properly pleaded, but not contentions, deductions or conclusions of fact or law...[and] matters which may be judicial noticed." (*Serrano v. Priest* (1971) 5 Cal.3d 584, 591.) The complaint is also given a reasonable interpretation, reading it as a whole and its parts in their context. (*Speegle v. Board of Fire*

Underwriters (1949) 29 Cal.2d 34, 42.) At the pleading stage, a plaintiff need only allege ultimate facts sufficient to apprise the defendant of the factual basis for the claim against him. (*Semole v. Sansoucie* (1972) 28 Cal.App.3d 714, 721.) A "demurrer does not, however, admit contentions, deductions or conclusions of fact or law alleged in the pleading, or the construction of instruments pleaded, or facts impossible in law." (*S. Shore Land Co. v. Petersen* (1964) 226 Cal. App.2d 725, 732.)

(2) ***Analysis***

Both of Plaintiff's causes of action are based on Plaintiff's claim that the District cannot withhold federal and California income taxes and Medicare taxes from his pay. (Complaint at ¶¶22-23, 27(A-C), 38, 44, 111(A-C), 126.) Plaintiff's claim is statutorily barred, and it fails as a matter of law because the District is authorized and legally required to withhold these taxes from Plaintiff's pay.

The District has no liability on Plaintiff's claim. To begin with, under 26 U.S.C. § 3402, an employer has a mandatory duty to withhold federal and state income tax from an employee's wages where required by applicable regulations. *Bright v. Bechtel Petroleum, Inc.* (9th Cir. 1986) 780 F.2d 766, 770 (citing *Maxfield v. United States Postal Service* (9th Cir. 1984) 752 F.2d 433, 434; and *Chandler v. Perini Power Constructors, Inc.* (D.N.H.1981) 520 F. Supp. 1152, 1153). The Internal Revenue Code, 26 U.S.C. § 3403, expressly provides that an employer is liable to the IRS for the payment of tax withheld, and "shall not be liable to any person for the amount of any such payment." Thus, suits by employees against employers for tax withheld have been deemed "statutorily barred." *Bright, supra*, 780 F.2d at 770. *See also Otworth v. Southern Pac. Transportation Co.* (1985) 166 Cal.App.3d 452, 458 [affirming the trial court's order sustaining employer's demurrer where the plaintiff's complaint was based solely on the

employer's withholding of federal and state income taxes from plaintiff's pay].) Similar statutes govern the withholding of Medicare taxes and California income taxes.[1]

In addition, Plaintiff's action is barred pursuant to the Anti-Injunction Act, 26 U.S.C. § 7421(a), which prohibits any "suit for the purpose of restraining the assessment or collection of any tax." (*Bright, supra*, 780 F.2d at 770 [a lawsuit based on an employer's withholding of taxes is barred by the Anti-Injunction Act]; see also *Brennan v. Southwest Airlines Co.* (9th Cir. 1998) 134 F.3d 1405, 1409, 1410-1411 [federal law preempts suit against third party in state court on state law theories for the prevention or recovery of the withholding of federal taxes; payor who withholds taxes is a mere agent of the IRS].

Despite these cases and statutes, Plaintiff appears to question the very basis, authority and application of the subject taxes by the federal and state governments on him as he is not an "individual" properly subject to the taxes. However, the general rule is clear:

"Section 1 of the Code imposes an income tax on the income of every individual who is a citizen or resident of the United States and, to the extent provided by section 871(b) or 877(b), on the income of a nonresident alien individual." (26 C.F.R. § 1.1-1(a)(1).)

Moreover, 26 U.S.C. § 3101(b) imposes a Medicare tax on the income of every individual who earns wages. And section 17041 of the California Revenue and Taxation Code ("CRTC") imposes income taxes on the entire taxable income of every California resident.

---

[1] *See generally*, 26 U.S.C. §§ 3401, 3402(a) [federal income taxes]; 26 U.S.C. §§ 3101, 3102(a) [Medicare taxes]; California Unemployment Insurance Code ("CIUC") § 13020 [California income taxes]; see also 22 CCR § 4340-1(b) [the Internal Revenue Code and its regulations apply for the purpose of California withholding requirements].

Plaintiff's Complaint alleges that Plaintiff is a United States citizen who resides in California and who earns wages from the District as a math teacher at a public high school. (Complaint at ¶¶3-4, 15-23.) These allegations were confirmed in open court during the hearing, although the Court relies exclusively on the pleadings at this stage. Therefore, by the very facts alleged in Plaintiff's Complaint, it is clear that Plaintiff is subject to Federal, California and Medicare taxes.

Accordingly, and consistent with its legal obligations, the District is properly withholding applicable federal and California taxes from Plaintiff's compensation with the District.

(3) ***Labor Code Section 221***

To the extent Plaintiff alleges a violation of Labor Code section 221 for the alleged unlawful withholding of wages (Complaint at ¶131), such claim also fails as a matter of law. "The provisions of Section[] 221 . . . shall in no way make it unlawful for an employer to withhold or divert any portion of an employee's wages when the employer is required or empowered so to do by state or federal law . . . ." (Labor Code section 224.) Because the District is legally required to withhold federal and California income taxes and Medicare taxes from Plaintiff's pay, the District's withholding of these taxes does not, as a matter of law, violate Labor Code section 221.

(4) ***Injunctive Relief***

Plaintiff also seeks an injunction preventing the District from withholding federal and California income taxes from Plaintiff's pay. (Complaint at ¶146.) However, "[i]njunctive relief is a remedy, not a cause of action." (*Allen v. City of Sacramento* (2015) 234 Cal.App.4th 41, 65.) Because Plaintiff fails to state a cause of action as a matter of law, it is improper to grant an

injunction, and the District's demurrer to Plaintiff's request for injunctive relief is also sustained. (*Bank of America National Trust & Savings Assn. v. Williams* (1948) 89 Cal.App.2d 21, 23.)

C. ***Conclusion***

The District's demurrer to Plaintiff's Verified Complaint is SUSTAINED without leave to amend. The District has clearly identified the laws that subject Plaintiff to federal, state and Medicare tax liability and Plaintiff has not identified any cause of action that exists independent of these requirements. Although leave to amend is ordinarily liberally granted, here there does not appear to be any reasonable possibility of amending the petition or complaint to state a cause of action.

Plaintiff's Request for Injunctive Relief (filed on March 13, 2023), which does not comply with procedural requirements, has nonetheless been considered on the merits. Plaintiff has not established the probably validity of his claims. Plaintiff relies on the same arguments made in his Opposition to the demurrer which fail for the reasons outlined above. Accordingly, Plaintiff's request for injunctive relief is DENIED.

DATED: March 30, 2023

Vanessa W. Vallarta
JUDGE OF THE SUPERIOR COURT

CERTIFICATE OF MAILING
(Code of Civil Procedure Section 1013a)

I do hereby certify that I am employed in the County of Monterey. I am over the age of eighteen years and not a party to the within stated cause. I placed true and correct copies of the **ORDER AFTER HEARING ON DEFENDANT'S DEMURRER**, for collection and mailing this date following our ordinary business practices. I am readily familiar with the Court's practices for collection and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Services in Monterey, California, in a sealed envelope with postage fully prepaid. The names and addresses of each person to whom notice was mailed is as follows:

Michael Ryan Holden Klingler
3490 Edgefield Place
Carmel, CA 93923

Marco A Lucido
Attn: Fenton & Keller, PC
2801 Monterey-Salinas HWY
Monterey, CA 93940

Andrew Blake Kreeft
2801 Monterey-Salinas Hwy
PO Box 791
Monterey, CA 93942

Date: 3/30/2023

Clerk of the Court,

By: _____
May Gebin, Deputy Clerk