1. BIJOU WOODS ASSOCIATES LP v. SHOP 1611, LLC, 25CV1938

(A) Plaintiff's Motion to Compel Response to Form Interrogatories (Set One)

(B) Plaintiff's Motion to Compel Response to Special Interrogatories (Set One)

(C) Plaintiff's Motion to Compel Response to Request for Production (Set Two)

On May 22, 2026, plaintiff Bijou Woods Associates LP ("plaintiff") filed separate motions to compel defendant Shop 1611, LLC's ("defendant") verified responses to Form Interrogatories (Set One), Special Interrogatories (Set One), and Request for Production (Set Two), respectively.

On July 20, 2026, defendant filed timely oppositions. Defense counsel declares he served defendant's verified responses to each of the three discovery requests. Counsel's declaration also explains that the failure to submit timely responses was solely attributable to him, as his family underwent an extraordinary family medical crisis.

On July 24, 2026, plaintiff filed timely reply briefs. While the motions to compel responses are moot, plaintiff maintains its requests for monetary sanctions.

Having reviewed and considered defense counsel's declaration, the court finds that imposition of a monetary sanction under these circumstances would be unjust. (Code Civ. Proc., §§ 2030.290, subd. (c) [interrogatories], 2031.310, subd. (h) [request for production].) Therefore, plaintiff's motions are each denied in their entirety.

TENTATIVE RULING # 1: PLAINTIFF'S MOTIONS TO COMPEL ARE EACH DENIED IN THEIR ENTIRETY. NO HEARING ON THIS MATTER WILL BE HELD (*LEWIS v. SUPERIOR COURT* (1999) 19 CAL.4TH 1232, 1247), UNLESS A NOTICE OF INTENT TO APPEAR AND REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 573-3042 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. NOTICE TO ALL PARTIES OF AN INTENT TO APPEAR MUST BE MADE BY TELEPHONE OR IN PERSON. PROOF OF SERVICE OF SAID NOTICE MUST BE FILED PRIOR TO OR AT THE HEARING.

2. PIMOR, ET AL. v. VANHEE WOODWORKS, 23CV0578

Order of Examination Hearing

On June 2, 2026, the court issued an order requiring Jeffrey Vanhee[1] to appear for examination. Proof of service filed June 10, 2026, shows plaintiffs personally served the order on him that same day.

TENTATIVE RULING # 2: JEFFREY VANHEE'S PERSONAL APPEARANCE IS REQUIRED AT 1:30 P.M., FRIDAY, JULY 31, 2026, IN DEPARTMENT FOUR.

[1] On May 22, 2026, the court granted plaintiffs' motion to amend the judgment entered against defendant Vanhee Woodworks to add Jeffrey Vanhee, an individual and the sole proprietor of Vanhee Woodworks.

3. BAILEY v. COUNTY OF EL DORADO, 24CV1675

(A) Defendant's Demurrer to Third Amended Complaint

(B) Defendant's Motion to Strike Portions of Third Amended Complaint

<u>Defendant's Demurrer to Third Amended Complaint</u>

On April 16, 2026, pursuant to Code of Civil Procedure section 430.41, subdivision (e), defendant County of El Dorado ("defendant" or the "County") filed a general demurrer to plaintiff Leo Bailey's ("plaintiff") third amended complaint ("TAC," filed March 6, 2026). Defense counsel declares he met and conferred with plaintiff on March 10, 2026, via teleconference in compliance with Code of Civil Procedure section 430.41, subdivision (a). (Little Decl., ¶ 3.)

On July 20, 2026, plaintiff filed a timely opposition. On July 24, 2026, defendant filed a timely reply.

1. Background

On October 15, 2020, deputies of the El Dorado County Sheriff's Department, a department of defendant, arrested plaintiff, who is of Puerto Rican heritage. (TAC, ¶¶ 3, 42.) During the arrest, deputies seized plaintiff's personal property pursuant to a search warrant. (TAC, ¶¶ 3, 9, 37.) Supervisors in the Sheriff's Department permitted County Code Enforcement Officer Wayne Shadow — a County employee with no peace-officer authority under Penal Code section 830.6 – to handle the seized property at the scene without gloves or proper documentation. (TAC, ¶ 8.)

Following the arrest, the El Dorado County District Attorney's Office filed a criminal action against plaintiff. (TAC, ¶ 4.) Although there were other "similarly situated" defendants in the case, County personnel selectively and arbitrarily inflated charges against plaintiff based on his Puerto Rican heritage. (TAC, ¶ 53.) Additionally, County personnel falsely accused plaintiff of "international drug trafficking." (TAC, ¶¶ 50, 52.)

None of plaintiff's co-defendants were labelled by the County as international traffickers. (TAC, ¶¶ 50, 53.)

In August 2023, a jury acquitted plaintiff of the criminal charges. (TAC, ¶¶ 5, 9.) Thereafter, the court in the criminal case granted plaintiff's motion for the release of his personal property that had been seized during his arrest. (TAC, ¶ 6.)

The TAC alleges that defendant, through the Sheriff's Department, maintained final policymaking authority over evidence handling, property custody, and post-acquittal property disposition. (TAC, ¶ 14.) Between August and December 2023, County personnel made decisions that resulted in the wrongful destruction or loss of plaintiff's seized property. (TAC, ¶ 9.)

In December 2023, when plaintiff sought to recover his property pursuant to the court's order, he was informed that much of it had been lost or destroyed while in the exclusive custody and control of the Sheriff's Department. (TAC, ¶ 7.)

"Plaintiff is informed and believes, and on that basis alleges, that the deprivation of property rights occurred as a direct result of the policies, customs, or practices of the County of El Dorado through the Sheriff's Department, including but not limited to: (1) inadequate procedures for safeguarding or inventorying arrestee property; (2) the failure to return lawfully held property upon acquittal or court order; and (3) the failure to adequately train and supervise personnel in these procedures." (TAC, ¶ 15.)

"Deputies repeatedly violated mandatory evidence-handling and property protocols, … [including]: (i) ungloved handling of evidence (violating EDSO Policy 322.5, POST LD 30, JIJ guidelines, and CSI protocols…); (ii) incomplete chain-of-custody and inventory logs (violating EDSO Policies 805.3.3, 805.4, Penal Code §§ 1405, 1417.9); (iii) destruction of hemp seeds/digital assets without confirmatory THC testing or documentation (violating EDSO Policy 805.8, NIJ standards, and search warrant requirements under Health & Safety Code § 11479); (iv) misclassification of legal hemp as contraband ('BCS Code: Drug') without forensic basis (contrary to Penal Code § 1524 and 2018 Farm Bill); and (v) unauthorized access/use of cryptocurrency (violating EDSO Policy 606.3.2).” (TAC, ¶ 16.)

“Sheriff John D’Agostini, as the County’s chief law enforcement officer with operational control over evidence and property management, possessed actual and constructive knowledge of the systemic violations described [in the TAC] through direct supervisory oversight, trial testimony by department personnel, and post-acquittal court proceedings. The County ratified these violations through deliberate inaction.” (TAC, ¶ 14.)

2. Request for Judicial Notice

Pursuant to Evidence Code section 452, subdivision (d), the court grants defendant’s unopposed request to take judicial notice of plaintiff’s TAC.

3. Legal Principles

“[A] demurrer challenges only the legal sufficiency of the complaint, not the truth or the accuracy of its factual allegations or the plaintiff’s ability to prove those allegations.” (*Amarel v. Connell* (1998) 202 Cal.App.3d 137, 140.) A demurrer is directed at the face of the complaint and to matters subject to judicial notice. (Code Civ. Proc., § 430.30, subd. (a).) All properly pleaded allegations of fact in the complaint are accepted as true, however improbable they may be, but not the contentions, deductions, or conclusions of fact or law. (*Blank v. Kirwan* (1985) 39 Cal.3d 311, 318; *Del E. Webb Corp. v. Structural Materials Co.* (1981) 123 Cal.App.3d 593, 604.) A judge gives “the complaint a reasonable interpretation, reading it as a whole and its parts in their context.” (*Blank*, *supra*, 39 Cal.3d at p. 318.)

4. Discussion

Defendant generally demurs to both causes of action on the same grounds, arguing it is not liable under 42 U.S.C. section 1983 (“Section 1983”) because the alleged conduct constitutes law enforcement action attributable to the State, as opposed to the County.

Plaintiff opposes the demurrer on the following grounds: (1) defendant's argument is based on a factual assertion not found in the TAC (i.e., that the County Code Enforcement Officer was temporarily deputized, and thus, was performing state law enforcement duties); (2) defendant's demurrer does not establish as a matter of law that all alleged conduct was state law enforcement action; and (3) the TAC sufficiently alleges wrongful conduct attributable to the County where the TAC identifies "the final policymaker by name, the violated policies by number, the department's own sworn admissions by quotation, six prior similar matters by docket number, and distinct administrative, custodial, and post-acquittal property functions that no California decision has categorically assigned to the State." (Opp. at 2:2–14.)

State courts have concurrent jurisdiction with federal courts to entertain suits brought under Section 1983. (*Williams v. Horvath* (1976) 16 Cal.3d 834, 837.) That statute provides in pertinent part: "Every *person* who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress…." (42 U.S.C. § 1983, italics added.)

States, and state officials sued in their official capacity, are not considered "persons" who can be sued, either in state or federal court, for damages under Section 1983. (*Will v. Michigan Dept. of State Police* (1989) 491 U.S. 58, 71.) Local governmental units such as counties or municipalities, on the other hand, are "persons" within the meaning of Section 1983. (*Monell v. New York City Dept. of Social Services* (1978) 436 U.S. 658, 690–691.) A local governmental unit cannot be liable under this section for acts of its employees based solely on a respondeat superior theory. A local governmental unit is liable only if the alleged deprivation of rights "implements or executes a policy statement, ordinance, regulation, or decision officially adopted and promulgated by that body's officers," or when the injury is in "execution of a [local] government's policy or custom, whether made by its lawmakers or by those whose edicts or acts may fairly be said to represent official policy." (*Monell*, *supra*, 436 U.S. at pp. 690, 691, 694.)

Thus, if the actions and policies at issue in this case are not official policies of the County, because the Sheriff acted in his capacity as a state official rather than a local policymaker for the County, then the County is not liable to suit under Section 1983. (*McMillian v. Monroe County* (1997) 520 U.S. 781, 784–785.) Whether a public official represents a county or a state when acting in a particular capacity is analyzed under state, not federal law. (*Pitts v. County of Kern* (1998) 17 Cal.4th 340, 352–353; see *McMillian*, *supra*, 520 U.S. at p. 786 [determining actual functions of government officer is dependent on relevant state law].)

"Identification of those officials whose decisions represent the official policy of a local governmental unit presents a question of law. [Citations.] The determination whether a particular official acts for the state, on the one hand, or for the local governmental unit, on the other hand, is a question of law depending primarily upon the definitions of the official's functions contained in state constitutional, statutory, and decisional law. [Citations.] … [¶] This determination does not require an 'all-or-nothing' categorization applying to every type of conduct in which the official may engage. Rather, the issue is whether the official is a local policymaker with regard to the particular action alleged to have deprived the plaintiff of civil rights. [Citations.]" (*County of Los Angeles v. Superior Court* (1998) 68 Cal.App.4th 1166, 1171–1172.)

4.1. Alleged Deprivation of Property Without Due Process

Under the first Section 1983 cause of action, the TAC alleges that defendant, through the Sheriff's Department, maintained final policymaking authority over evidence handling, property custody, and post-acquittal property disposition. (TAC, ¶ 14.) Between August and December 2023 — after defendant was acquitted of the criminal charges — County personnel made decisions that resulted in the wrongful destruction or loss of plaintiff's seized property. (TAC, ¶ 9.)

California caselaw holds that a sheriff acts in his capacity as a state official, rather than as a local policy maker for the county, with respect to evidence handling during investigation and prosecution of a criminal case. (See, e.g., *Venegas v. County of Los Angeles* (2004) 32 Cal.4th 820, 839.) Therefore, plaintiff's allegations regarding evidence contamination, which allegedly occurred during the seizure of such evidence, would constitute conduct attributable to the State, for which the County is not liable under Section 1983.

However, the parties do not cite any legal authority specifically addressing the handling of seized property after a defendant has been acquitted of criminal charges.

Penal Code section 1536 provides: "All property or things taken on a warrant must be retained by the officer in his custody, subject to the order of the court to which he is required the proceedings before him, or of any other court in which the offense in respect to which the property or things taken is triable." (Pen. Code, § 1536.)

In *People v. Superior Court* ("*Loar*"), defendants were acquitted of a charge of conspiracy to distribute obscene films. There had been a mass seizure of a vast quantity of films but only a few of them were introduced into evidence. Following the acquittal, the Judge of the Superior Court who tried the case granted a motion for the return of all films seized. The People sought a writ of prohibition from the appellate court challenging the validity of the order to return. One of the People's contentions in that case was that the verdicts of acquittal did not determine that the mass of films not introduced into evidence were not obscene and that therefore the court lacked power to order their restitution to the owners. The appellate court's response to that contention was: "In the present case almost a year elapsed between seizure and the order to return. Consequently, even if it be assumed, as proposed by the People, that the jury verdicts of acquittal in the criminal action were not a final judicial determination on obscenity with respect to the films not introduced into evidence, continued official retention with no further criminal action pending or contemplated would be violative of the owners' First Amendment and due process rights and would require restoration of the seized items. [Citations.]” (*Loar*, *supra*, 28 Cal.App.3d 600, 618—619.)

As shown in *Loar*, the Sheriff holds seized property subject to court authority, not independent departmental policy. Therefore, the court rejects plaintiff’s argument that the Sheriff was performing “ministerial property-management functions subject to County policy control.” (See, TAC, ¶ 8.) The court finds plaintiff’s allegations that deputies wrongfully disposed of his seized property is conduct attributable to the State, not the County.

Having concluded that plaintiff’s allegations of wrongful conduct are attributable to the State and not the County, the court finds that defendant is not liable under Section 1983. Therefore, the court sustains defendant’s demurrer to the first cause of action, and, because there is no reasonable likelihood that further amendment can cure the defect, the court denies leave to amend. (*Roman v. County of Los Angeles* (2000) 85 Cal.App.4th 316, 322.)

4.2. Alleged Disparate Treatment Based on Puerto Rican Heritage

The second Section 1983 cause of action in the TAC alleges County personnel falsely accused plaintiff of “international drug trafficking” and inflated criminal charges against him due to his Puerto Rican heritage. (TAC, ¶¶ 50–51.) Plaintiff alleges “[t]hese false and contradictory statements by multiple officers in official reports, using different phrasing …, demonstrates a custom or practice of fabricating or reconstructing incriminating statements [against Puerto Rican suspects] to support charges and selective treatment [against said suspects].” (TAC, ¶ 51.)

The court agrees with defendant that the alleged conduct is attributable to the State, not the County. Making statements in reports falls under state law enforcement activity. Similarly, deciding what charges to press against a suspect is an act made on behalf of the People of the State of California.

The court sustains defendant's demurrer to this cause of action, and, because there is no reasonable likelihood that further amendment can cure the defect, denies leave to amend. (*Roman*, *supra*, 85 Cal.App.4th at p. 322.)

Defendant's Motion to Strike Portions of Third Amended Complaint

Having sustained defendant's demurrer to both causes of action in the TAC, the court denies the motion to strike as moot.

TENTATIVE RULING # 3: THE COURT SUSTAINS DEFENDANT'S DEMURRER WITHOUT FURTHER LEAVE TO AMEND. HAVING SUSTAINED THE DEMURRER, THE COURT DENIES DEFENDANT'S MOTION TO STRIKE AS MOOT. NO HEARING ON THIS MATTER WILL BE HELD (*LEWIS v. SUPERIOR COURT* (1999) 19 CAL.4TH 1232, 1247), UNLESS A NOTICE OF INTENT TO APPEAR AND REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 573-3042 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. NOTICE TO ALL PARTIES OF AN INTENT TO APPEAR MUST BE MADE BY TELEPHONE OR IN PERSON. PROOF OF SERVICE OF SAID NOTICE MUST BE FILED PRIOR TO OR AT THE HEARING.

4. CHEEK, ET AL. v. FITZPATRICK, ET AL., 25CV0391

Petition for Minor's Compromise

TENTATIVE RULING # 4: ABSENT OBJECTION, PETITION IS GRANTED.

PLAINTIFF / PETITIONER LINDSAY CHEEK IS ORDERED TO TRANSMIT THE SETTLEMENT FUNDS ($10,000) PREVIOUSLY RECEIVED FROM DEFENDANTS INTO THE TRUST ACCOUNT OF L. MARK BISSONNETTE WITHIN 10 DAYS OF THE NOTICE OF ENTRY OF ORDER.

5. BERTO v. ERMINERO, ET AL., 24CV2840

Motion for Sanctions

TENTATIVE RULING # 5: UPON PLAINTIFF'S REQUEST, AND IN THE ABSENCE OF OBJECTION, THE COURT HEREBY CONTINUES THE HEARING ON THE MOTION FOR SANCTIONS TO 1:30 P.M., FRIDAY, AUGUST 28, 2026, IN DEPARTMENT FOUR, TO BE HEARD CONCURRENTLY WITH PLAINTIFF'S MOTION TO BE RELIEVED AS COUNSEL.

6. PEOPLE v. $77,487.90 UNITED STATES CURRENCY, 25CV3100

Status of Related Criminal Case

This matter is before the court for a status hearing regarding the related criminal case, *People v. Halterhurn* (El Dorado Super. Ct., Case No. 25CR2987). Under California state law, where, as here, forfeiture is contested, a judgment of forfeiture requires as a precondition that a defendant be convicted in an underlying or related criminal action of one of the offenses specified in Health and Safety Code section 11470, subdivisions (e) or (g), which offense occurred within five years before the seizure or the notification of intention to seek forfeiture.

The court's register of actions indicates the criminal case is set for a pre-preliminary hearing on September 14, 2026. The court, on its own motion and in the interest of judicial economy, continues the status hearing in the instant case to November 20, 2026.

TENTATIVE RULING # 6: THE COURT, ON ITS OWN MOTION AND IN THE INTEREST OF JUDICIAL ECONOMY, CONTINUES THE STATUS HEARING TO 1:30 P.M., FRIDAY, NOVEMBER 20, 2026, IN DEPARTMENT FOUR.