

**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF VENTURA
VENTURA DIVISION**

TENTATIVE RULINGS

EVENT DATE: 05/04/2016
JUDICIAL OFFICER: Kevin DeNoce

EVENT TIME: 08:20:00 AM

DEPT.: 43

CASE NUM: 56-2016-00476697-CU-OE-VTA
CASE TITLE: TAITAI VS CITY OF PORT HUENEME

CASE CATEGORY: Civil - Unlimited

CASE TYPE: Other employment

EVENT TYPE: Motion to Strike
CAUSAL DOCUMENT/DATE FILED: Motion to Strike, 02/23/2016

With respect to the below scheduled tentative ruling, no notice of intent to appear is required. If you wish to submit on the tentative decision, you can send an email to the court at: Courtroom43@ventura.courts.ca.gov or send a telefax to Judge DeNoce's secretary, Hellmi McIntyre at 805-477-5894, stating that you submit on the tentative. Do not call in lieu of sending a telefax, nor should you call to see if your telefax has been received. If you submit on the tentative without appearing and the opposing party appears, the hearing will be conducted in your absence. This case has been assigned to Judge DeNoce for all purposes.

Absent waiver of notice and in the event an order is not signed at the hearing, the prevailing party shall prepare a proposed order and comply with CRC 3.1312 subdivisions (a), (b), (d) and (e). The signed order shall be served on all parties and a proof of service filed with the court. A "notice of ruling" in lieu of this procedure is not authorized.

The court's tentative ruling is as follows:

Strike the request for punitive damages. The allegations against the individual defendants do not meet the standards of CC §3294. Strike reference to attorneys fees. Plaintiffs have not identified any statutory or contractual basis for such fees. Strike the allegations of ¶51-56. The allegations are irrelevant and superfluous. They relate to general financial issues with the City that have no bearing on whether the defendants engaged in any wrongdoing.

Discussion:

Punitive Damages - Punitive damages can be assessed against public employees. There is no dispute on that issue. Runyon v. Superior Court (1986) 187 Cal.App.3d 878, 881. However, forcing an employee to choose between working for the City and unemployment benefits is not malicious, fraudulent or oppressive. CC§3294.

Disgorgement of Monies - In the prayer, Ps seek disgorgement of monies wrongfully obtained. But, there are no facts at all in the complaint as to the defendants obtaining any monies from P. Ps argues that broad equitable relief is available under Labor Code §98.7, but the relief cannot apply to damages that have not occurred.

Attorneys Fees - CC §52.1 cannot serve as the basis for attorney fees because Ps have failed to allege the violence or threat of violence associated with the speech for the cause of action to stand. None of the Labor Code provisions cited by Ps (§98.6, §98.7, and §1102.5 provide for attorneys fees. Ps are incorrect that the phrase "all appropriate relief" provides any basis for attorneys fees. Ps add that CCP §1102.5 would apply for the private attorney general doctrine. But, the recovery here is personal. Ps are not seeking class wide relief that would vindicate an important public right.

Redundant Claims - This argument is moot given the court's ruling on the demurrer. I also don't think the causes of action are redundant.