

FILED
Superior Court of California
County of Los Angeles

JAN 09 2017

Sherri R. Carter, Executive Officer/Clerk
By [Signature] Deputy
M.V. Carino

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES**

11	McLaughlin,)	Case No.: BC622687
12)	
13	Plaintiff,)	RULING RE SUBMITTED MATTERS; AND
14)	ORDER OF DISMISSAL
15	vs.)	
16)	
17	Harris, etc.,)	Hearing date: 11/15/16 (with further briefing and
	Defendant.)	submitted as of 1/3/17)

Matters:

1. Defendant Kamala Harris' motion to strike complaint pursuant to California Code of Civil Procedure section 426.16 (sic) [anti-SLAPP motion] (filed 9/14/16);
2. Defendant Kamala Harris' demurrer to the complaint (filed 9/14/16).

Having read and considered all moving, opposing, and reply papers, post-hearing supplemental papers (pursuant to the court's interim ruling of 11/21/16, and having previously heard argument on 11/15/16, the court now rules on the above submitted matters as follows:

RULING: Defendant's motion to strike pursuant to CCP § 425.16 is GRANTED. The demurrer is moot. The action is ordered dismissed. This order shall suffice as the Order of Dismissal and notice thereon. All future calendar dates are vacated.

1 **DISCUSSION**

2 **Evidentiary matters:**

3 Defendant's request for judicial notice (RJN, filed 9/14/16): The court reaffirms its
4 previous grant of Defendant's unopposed RJN per its earlier tentative ruling issued before the
5 11/15/16 hearing. All references to defendant's RJN will be by Bates stamp number for
6 convenience, e.g., "RJN, Bates no. ____."

7 Plaintiff's supplemental requests for judicial notice (for unexplained reasons filed in
8 duplicate on 12/13/16 and 12/16/16) are granted as to Exhibits 3, 4, and 5, and granted as to
9 Exhibit 1 (Petition for review) and Exhibit 2 (Application for relief from default), as to the fact of
10 filing, but not the truth of the contents thereof, and, further, on the condition that Plaintiff shall
11 submit with a cover sheet within 10 days of this order a conformed file-stamped copy of page 1 of
12 Exhibits 1 and 2 to confirm the case number and filing date of each document or a declaration to
13 that effect if and why the conformed pages are not available. Notwithstanding such condition,
14 there does not appear to be a reasonable dispute regarding the filing dates of these documents as
15 shown by the docket in S2299006 (Ex. 3) Defendant Harris' evidentiary objections (nos. 1 and 2)
16 to Plaintiff's RJN are otherwise overruled in their entirety.

17 **Procedural and factual chronology:**

18 **McLaughlin's "Sodomite Suppression Act"**

- 19 • 2/24/15: McLaughlin sends this proposed initiative measure (Penal Code section 39) to
20 the Attorney General, stamped "received 2/26/15." (Def't. RJN, Bates 33-34)

21 **Harris v. McLaughlin (Sacramento County Superior Court Case no. -6996)**

- 22 • 3/25/15: Atty. Gen. Harris files her complaint for declaratory relief against
23 McLaughlin seeking a judicial declaration that her office be relieved of issuing a title
24 and summary of McLaughlin's proposed "Sodomite Suppression Act" because it is
25 patently unconstitutional on its face and would be "inappropriate, waste public
26 resources, generate unnecessary divisions among the public, and tend to mislead the
27 electorate..." (RJN, Bates 30-31, 4:25-5:5)

- 1 • **6/22/15:** Harris obtains a default judgment as prayed in her complaint against
2 McLaughlin, with the court finding the proposed initiative patently unconstitutional on
3 its face, and relieving Harris of any obligation to issue a title and summary for the
4 initiative. (RJN, Bates 132-133)
- 5 • **6/25/15:** Harris serves McLaughlin with Notice of entry of the judgment in -6996.
6 (RJN, Bates 135-136)

7 **McLaughlin's "Sodomite Suppression Mandate"**

- 8 • **6/24/15:** McLaughlin sends his proposed constitutional amendment papers to the
9 Attorney General (RJN, Bates 166-169)
- 10 • **7/1/15:** Citing the judgment in -6996 and "substantively identical" language with the
11 "Sodomite Suppression Act," the Attorney General notifies McLaughlin that "it cannot
12 process your request and are returning it to you..." (RJN, Bates 165)
- 13 • **7/2/15:** McLaughlin writes Harris re his "Prelitigation Notice/Sodomite Suppression
14 Mandate, citing, among other things, 7/7/15 as the last date to comply with Secretary of
15 State deadlines for the 2016 election. (RJN, Bates 188-189)

16 **Petition of McLaughlin for peremptory writ of mandate in McLaughlin v. Harris, captioned as**
17 **McLaughlin v. Superior Court of Sacramento County (Kamala Harris, RPI) (S227835;**
18 **C079976)**

- 19 • **7/15/15:** McLaughlin files this petition with the California Supreme Court (stamped
20 "received" 7/15/15; case no. S227835) as an "original petition... requiring the Attorney
21 General to perform the ministerial task of issuing a title and summary for a proposed
22 ballot initiative." (RJN, Bates 146, et seq., at 151. In his supporting memorandum,
23 McLaughlin referred to the earlier Sodomite Suppression Act and court case -6996,
24 stating "I ... came to the conclusion that rather than litigate to defend a mere statutory
25 proposal, I would let that one go and seek instead a new Constitutional amendment..."
26 (RJN, Bates 154). McLaughlin further argued that the earlier judgment, "despite its
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1 dubious legality,” did not apply to his second proposal for a constitutional amendment
2 and “cannot constitute *res judicata* ...” (RJN, Bates 155-6, italics in original)

- 3 • **8/13/15:** The Supreme Court transfers S227835 to the 3rd DCA. (RJN, Bates 204)
- 4 • **9/15/15:** The 3rd DCA, under case nos. C079976 and Sacramento County -6996 (i.e.,
5 the *Harris v. McLaughlin* case), denies McLaughlin’s Petition for Peremptory Writ of
6 Mandate, stating: “Petitioner failed to appeal from the judgment in *Harris v.*
7 *McLaughlin* ... , and has allowed that judgment to become final. Petitioner is bound by
8 the judgment in that case. (See *English v. English* (1937) 9 Cal.2d 358, 363; *Gottlieb*
9 *v. Kest* (2006) 141 Cal.App.4th 110, 148-149.)” (RJN, Bates 206)

10 **McLaughlin’s application for relief from default and petition for review in the Supreme Court**

11 **(Case no. S229906 re 3rd DCA case no. C079976)**

- 12 • **10/09/15; 10/13/15:** The first date is the date McLaughlin signed his petition for
13 review (Ex. 1, p.4). The second date is the date the Supreme Court enters the petition
14 as “untimely” (Ex. 3) McLaughlin’s petition for review claimed the 3rd DCA’s denial
15 of his writ petition based on the judgment in *Harris v. McLaughlin* was wrong because
16 of the difference in the two initiative proposals, the judgment involved the Sodomite
17 Suppression Act, and his writ petition involved Harris’ “illegal blocking” of the
18 Sodomite Suppression Mandate. (Ex. 1, p. 4) The Supreme Court Case Information
19 refers to the same 3rd DCA case no. (C079976) as originally issued with the prior writ
20 petition three months earlier (see 7/15/15) and uses the identical case caption
21 (McLaughlin v. S.C. (Harris)) as well, but opens a new Supreme Court case number
22 (S229906). The title page of McLaughlin’s petition for review (and application for
23 relief from default) did not refer to the Sacramento Superior Court, only “denial by the
24 Court of Appeal.”
- 25 • **10/13/15:** This is the date McLaughlin signs his application for relief from default.
26 According to McLaughlin, a clerk from the Supreme Court told him he needed to apply
27 for relief from default; he “mistakenly believed the [3rd DCA’s] order denying review
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1 did not become final according to the normal timing of 30 days and that I had 10 days
2 thereafter to file my petition for review ... I have been advised that I actually only had
3 10 days to make the appeal.” (Ex. 2)¹

- 4 • **10/14/15:** This is the date the Supreme Court (Case no. S229906) files, and denies,
5 McLaughlin’s application for relief from default; and docket the case as “closed.”
6 (Ex. 3) The Supreme Court’s denial cites CRC 8.60(d).² (Ex. 4) The clerk also
7 returned McLaughlin’s petition for review and filing fee. *Id.*
- 8 • **10/19/15:** The Supreme Court returns, unfiled, McLaughlin’s “Application to Amend
9 Petition for Review,” referring him to the earlier denial of his application for relief
10 from default. (Ex. 5)

11 **McLaughlin’s “special petition for extraordinary relief” (S230201)**

- 12 • **10/26/15:** McLaughlin claims to have filed this “special petition” in the Supreme
13 Court on this date (see RJN, Bates 014) and the Supreme Court’s denial on **12/9/15**.
14 Neither party has submitted copies of these documents.

15 **McLaughlin’s governmental claim compliance**

- 16 • **1/14/16:** Date McLaughlin signs his governmental claim for an “on-going violation of
17 civil rights (to petition),” indicating an incident date of “6/24/15 + continuing.” (RJN,
18 Bates 023).
- 19 • **1/15/16:** Date claim received by State. (RJN, Bates 012)
- 20 • **2/1/16:** State notifies McLaughlin that his claim was both incomplete and late, i.e.,
21 presented more than six months from the date of the incident, and gives notice to apply
22 for leave to present a late claim. (RJN, Bates 021-022)

24 ¹ Any statement attributable to the clerk is not accepted for the truth of the matter asserted, only for the
25 relevant non-hearsay purpose of explaining McLaughlin’s state of mind and his purpose in presenting his
application.

26 ² **CRC 8.60(d)** is a “relief from default” provision, and provides, in pertinent part: “For good cause, a
27 reviewing court may relieve a party from default for any failure to comply with these rules except the
28 failure to file a timely notice of appeal...”

- 1 • 3/9/16: McLaughlin presents his Application for leave to file late claim, etc. (RJN,
2 Bates 012; 016)
- 3 • 3/23/16: State acknowledges receipt of the claim and application; refers to agencies
4 involved, a three-month process. (RJN, Bates 012)
- 5 • 4/21/16: State's claims staff notifies McLaughlin it will recommend denial of the late
6 claim application and rejection of the underlying claim, to be presented to the Board at
7 its meeting on 5/19/16. (RJN, Bates 010)
- 8 • 5/19/16: State's Claims Board notifies McLaughlin it denied his application to present
9 a late claim and "rejected the claim itself." (RJN, Bates 008) The notice included a
10 warning regarding filing a timely petition under Govt. Code § 946.6. *Id.*

11 **McLaughlin v. Harris (BC622687)- the instant action**

- 12 • 6/6/16: McLaughlin files his complaint in this action against Harris, individually, and
13 in her capacity as Attorney General, alleging one cause of action for intentional tort,
14 "Violation of Citizen's Right to Petition, Illegal AntiChristian Discrimination," and
15 seeking general and punitive damages.
- 16 • 9/14/16: Harris files her anti-SLAPP motion and demurrer.
- 17 • 10/31/16: McLaughlin files his opposition papers.
- 18 • 11/7/16: Harris files her reply papers.
- 19 • 11/15/16: The matters are heard, argued, and submitted this date.
- 20 • 11/21/16: On 11/21/16 the court issued an interim order requesting further information
21 and supplemental briefing, all due by 1/3/17, at which time the matters would stand
22 submitted.
- 23 • 1/3/17: All supplemental papers filed per court's interim order.

24 **DEFENDANTS' ANTI-SLAPP MOTION**

25 A defendant may file a motion to strike a claim "arising from any act of [defendant] in
26 furtherance of [defendant's] right of petition or free speech under the United States Constitution or
27 the California Constitution in connection with a public issue" (§425.16(b)(1). *Bergstein v.*

1 *Stroock, etc.* (2015) 236 Cal.App.4th 793, 803. “The anti-SLAPP statute’s definitional focus is not
2 on the form of the plaintiff’s cause of action but, rather, the defendant’s activity that gives rise to
3 his or her asserted liability-and whether that activity constitutes protected speech or petitioning.”
4 *Navellier v. Sletten* (2002) 29 Cal.4th 82, 92.

5 The statute itself requires courts to construe the statute broadly (§425.16(a) “to encourage
6 continued participation in free speech and petition activities.” (Citation omitted.) *D.C. v. R.R.*
7 (2010) 182 Cal.App.4th 1190, 1211 The statute includes four categories of protected conduct as set
8 forth in subdivision (e)(1) through (e)(4):

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- 10 (1) Any written or oral statement or writing made before a legislative, executive, or
11 judicial proceeding, or any other official proceeding authorized by law;
 - 12 (2) Any written or oral statement or writing made in connection with an issue under
13 consideration or review by a legislative, executive, or judicial body, or any other
14 official proceeding authorized by law;
 - 15 (3) Any written or oral statement or writing made in a place open to the public or a public
16 forum in connection with an issue of public interest (§ 425.16(e)(3)); or
 - 17 (4) Any other conduct in furtherance of the exercise of the constitutional right of petition
18 or the constitutional right of free speech in connection with a public issue or an issue of
19 public interest (§ 425.16(e)(4)).

20 CCP § 425.16 “ ‘requires that a court engage in a two-step process when determining
21 whether a defendant's anti-SLAPP motion should be granted.’ ” (Citation omitted.) “ ‘First the
22 court decides whether the *defendant* has made a threshold showing that the challenged cause of
23 action is one arising from protected activity. [Citation.] “A defendant meets this burden by
24 demonstrating that the act underlying the plaintiff's cause [of action] fits one of the categories
25 spelled out in section 425.16, subdivision (e)” [citation].’ [Citation.] ... [¶] If the defendant makes
26 this showing, the court proceeds to the second step of the anti-SLAPP analysis. [Citation.] In the
27 second step, the court decides whether the *plaintiff* has demonstrated a reasonable probability of
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1 prevailing at trial on the merits of its challenged causes of action. [Citations.] [¶] Conversely, if the
2 defendant does not meet its burden on the first step, the court should deny the motion and need not
3 address the second step. [Citation.]” (Citation omitted.)” *Hunter v. CBS Broadcasting* (2013) 221
4 Cal.App.4th 1510, 1519 (italics added). “Only a cause of action that satisfies both prongs of the
5 anti-SLAPP statute—i.e., that arises from protected speech or petitioning and lacks even minimal
6 merit—is a SLAPP, subject to being stricken under the statute.” *Navellier, supra, at 89* (italics
7 omitted).

8 **First prong- Protected activity:** Has defendant Harris shown that the conduct comprising
9 McLaughlin’s single cause of action arises from the Attorney General’s protected activity under
10 any of the four categories in CCP § 425.16?³

11 In determining the applicability of CCP § 425.16 to the myriad of factual situations
12 presented in anti-SLAPP cases, courts should look at the “principal thrust or gravamen” of a
13 plaintiff’s claims. *Dyer v. Childress* (2007) 147 Cal.App.4th 1273, 1279. Here, plaintiff’s single
14 claim relates not only to the Attorney General’s written decision dated 7/1/15 (see Complaint, Ex.
15 A) “to reject the plaintiff’s initiative and refuse to process it, to falsely claim that the
16 Constitutional initiative was identical to a statutory initiative that plaintiff had earlier submitted,”
17 but also because of Harris’ “own personal animosity toward the plaintiff’s historic American
18 religious beliefs as demonstrated by her publicly (sic) denigration of the plaintiff at an event for
19 sodomite activists and through press releases.” (Complaint, Intentional Tort, p.3, unnumbered ¶13)

20 “Section 425.16 does not define ‘public interest’ or ‘public issue.’ Those terms are
21 inherently amorphous and thus do not lend themselves to a precise, all-encompassing definition.”
22 *Cross v. Cooper* (2011) 197 Cal. App. 4th 357, 371. However, in this case, there does not seem
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24 ³ McLaughlin complains that it is ironic that Harris seeks to apply the anti-SLAPP statute when it is
25 McLaughlin’s own First Amendment rights that allegedly have been violated. However, Plaintiff cites no
26 authority that finds the first prong cannot be established even assuming that characterization were true.
27 Any cursory review of the flood of cases interpreting the “ever widening haven of the SLAPP statute”
28 (*Governor Gray Davis Com. v. American Taxpayers Alliance* (2002) 102 Cal.App.4th 449, 455) would no
doubt show competing constitutional rights on both sides of the litigation.

1 to be any serious dispute that the “public issue” or “public interest” requirement, as it appears in
2 paragraphs (3) and (4) of subdivision (e) of CCP § 425.16 covers Harris’ conduct for purposes of
3 their anti-SLAPP motion.

4 The court also finds that paragraph (2) of subdivision (e) of CCP § 425.16 applies, and
5 potentially, even (1). “First, government agencies and their representatives have First Amendment
6 rights, and are ‘persons’ entitled to protection under section 425.16, subdivision (b). [Citations.]
7 It can no longer be questioned that section 425.16 extends to government entities and employees
8 that issue reports and take positions on issues of public interest relating to their official duties.”
9 *Santa Barbara County Coalition Against Auto. Subsidies v. Santa Barbara County Ass’n of*
10 *Governments* (2008) 167 Cal.App.4th 1229, 1237–38.

11 While Defendant, as Attorney General, is responsible for preparing a circulating title and
12 summary of a proposed initiative, California law provides that she may seek legal action in order
13 to be relieved of that duty based on a judicial determination that the proposed measure is invalid.
14 *See Schmitz v. Younger* (1978) 21 Cal.3d 90, 93; *Widders v. Furchtenicht* (2008) 167 Cal.App.4th
15 769, 780. Pursuant to this authority, on March 25, 2015, Defendant filed a declaratory relief
16 action in Sacramento County Superior Court requesting a judicial declaration that Plaintiff’s first
17 ballot measure, the “Sodomite Suppression Act,” was unconstitutional on its face and that
18 Defendant be relieved from her obligation to issue a title and summary. (RJN, Bates 26-34) On
19 June 22, 2015, a default judgment was issued in Defendant’s favor and found that Plaintiff’s first
20 ballot initiative was “patently unconstitutional on its face.” (RJN, Bates 132, et seq.)
21 Accordingly, Defendant was relieved from her obligation to issue a title and summary for
22 Plaintiff’s first ballot measure. *Id.*

23 Thereafter, on June 24, 2015, Plaintiff submitted his second ballot measure, the “Sodomite
24 Suppression Mandate,” which is the subject of this action. *See* Compl., p. 3, Ex. A. Concluding
25 that this second measure was essentially identical to the first, Defendant, through initiative
26 coordinator Ashley Johansson, informed Plaintiff that the Sacramento court’s ruling applied
27 equally to the second ballot measure. *See* Compl., p. 3, Ex. A. Plaintiff then petitioned the
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1 California Supreme Court to force Defendant to issue a title and summary of the second ballot
2 measure. (RJN, Bates 146, et seq.) This petition was transferred to the Third District Court of
3 Appeal, which denied Plaintiff's petition, finding that Plaintiff was bound by the judgment in the
4 Sacramento court case. (RJN, Bates 202-207)

5 Harris' decision that the second ballot initiative was identical to the first and that she was
6 relieved from her obligation to circulate a title and summary for this measure is clearly made in
7 connection with an issue under consideration or review by an executive body or other official
8 proceeding authorized by law. Defendant, the Attorney General, is an executive of the State. Cal.
9 Const., art. V, § 13; Cal. Gov't Code § 12550. Therefore, the decisions and the Defendant's
10 alleged false claims regarding the Plaintiff's proposed initiatives are protected acts for SLAPP
11 purposes.

12 The first prong of the anti-SLAPP analysis is met. The court finds that Defendant Harris
13 has met her burden of showing that Plaintiff's single cause of action arises out of Harris' protected
14 activity.

15 **Second Prong – Plaintiff's probability of success on the merits**

16 Once a defendant has established that the anti-SLAPP statute applies, the burden shifts to
17 the plaintiff to demonstrate a "probability" of success on the merits. CCP § 425.16(b); *Equilon*
18 *Enterprises LLC v. Consumer Cause, Inc.* (2002) 29 Cal.4th 53, 67. "[T]he plaintiff must
19 demonstrate that the complaint is both legally sufficient and supported by a sufficient prima facie
20 showing of facts to sustain a favorable judgment if the evidence submitted by the plaintiff is
21 credited." *Matson v. Dvorak* (1995) 40 Cal.App.4th 539, 548 (internal quotations omitted). The
22 evidentiary showing by the plaintiff must be made by competent and admissible evidence.
23 *Morrow v. Los Angeles Unified School District* (2007) 149 Cal.App.4th 1424, 1444. "We decide
24 the second step of the anti-SLAPP analysis on consideration of 'the pleadings and supporting and
25 opposing affidavits stating the facts upon which the liability or defense is based.' (§ 425.16, subd.
26 (b)). Looking at those affidavits, '[w]e do not weigh credibility, nor do we evaluate the weight of
27 the evidence. Instead, we accept as true all evidence favorable to the plaintiff and assess the
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1 defendant's evidence only to determine if it defeats the plaintiff's submission as a matter of law.'
2 [Citation.] [¶] That is the setting in which we determine whether plaintiff has met the required
3 showing, a showing that is 'not high.' [Citation.]" *Grewal v. Jammu* (2011) 191 Cal.App.4th 977,
4 989.

5 Plaintiff's argument is simple. Unlike his previous Sodomite Suppression Act, a statutory
6 initiative, the Sodomite Suppression Mandate was a constitutional initiative. Harris cannot rely on
7 what occurred with the former as a reason for rejecting the latter, thereby breaching her mandatory
8 duty and causing him harm.

9 To the extent Plaintiff has the burden to show any material factual differences between
10 either initiative, Plaintiff has failed to do so. The moving papers point out (@ fn. 2, 7:23) only
11 two differences, neither of any significance to this motion.⁴

12 Res judicata.

13 Whether Plaintiff meets his burden on the second prong turns on a question of law
14 involving the preclusive effect of the proceedings in the Sacramento County Superior Court and
15 3rd District Court of Appeal cases outlined in the chronology above. McLaughlin argues that the
16 3rd DCA's denial of his writ petition on 9/15/15 (RJN, Bates 206) "was only a *summary* denial,
17 and as such, therefore, is without preclusion (sic)_effect as to any issues in the present litigation."
18 (Plaintiff Supp.Brief 1:28-30) The court disagrees. Plaintiff's supplemental brief (3:8) cites,
19 among other cases, *Hagan v. Superior Court* (1962) 57 Cal.2d 767. To the contrary, *Hagan*
20 actually confirms defendant Harris' position as noted in her supplemental reply (2:16-18) that the
21 3rd DCA's 9/15/15 ruling signed by Justice Hull had preclusive effect: "The rule is well settled
22 that a denial by this or the appellate court of an application for a writ without opinion" is not res
23 judicata of the legal issues presented by the application unless the *sole possible* ground of the
24 denial was that the court acted on the merits, or unless it affirmatively appears that such denial was

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26 ⁴ Nor does Plaintiff even attempt to support the other allegations in the complaint regarding Harris'
27 "personal animosity."
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1 intended to be on the merits." (Citations omitted.)" *Hagan, supra*, at 770 (Italics in original). Far
2 from being an "off-hand comment" (Pltf. Supp. Brief 4:10), there is no other reasonable basis for
3 the appellate court's albeit succinct denial of the petition other than on its substantive merits,
4 particularly when McLaughlin's petition itself anticipated the precise issue of *res judicata* (RJN,
5 Bates 155-6) and because the ruling itself cited two published cases rejecting McLaughlin's
6 position. The *English* and *Gottlieb* cases cited by the 3rd DCA (RJN, Bates 206) addressed the
7 preclusive effect of a judgment obtained by default with specific findings, as were clearly made in
8 the judgment entered in the Sacramento County case -6996. McLaughlin admits that he
9 consciously decided not to contest that judgment (as opposed to withdrawing the initiative and
10 mooting the Attorney General's complaint for declaratory relief) but, as adjudicated by the 3rd
11 DCA, he must now live with the consequences of his decision. Finally, there is no dispute that the
12 3rd DCA ruling of 9/15/15 is now final.⁵

13 Other grounds preventing McLaughlin from prevailing. There may be other grounds
14 preventing McLaughlin from prevailing on his claim besides the preclusive effect discussed
15 above. While the burden on this second prong is again Plaintiff's, Defendant Harris contends
16 McLaughlin cannot prevail because he did not present a timely government claim; Harris enjoys
17 discretionary immunity under Govt. Code § 820.2 and any mandatory duty falls upon the State,
18 not Harris; no private right of action for damages exists based on any non-compliance with Harris'
19 statutory obligations; and the unconstitutional content of the initiative itself. Given the court's
20 dispositive ruling on the preclusion issue, the court need not decide whether any one of these
21 would be dispositive.

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23 **DEFENDANT'S DEMURRER**

24 The demurrer is moot in light of the court's grant of Harris' anti-SLAPP motion.

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27 ⁵ CRC 8.60(d), upon which the Supreme Court relied in denying McLaughlin's application for relief from
28 default (Ex. 4), does not excuse an untimely notice of appeal.


ORDER OF DISMISSAL

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The action is ordered dismissed. This order shall suffice as the Order of Dismissal and notice thereon. All future calendar dates, if any, are vacated.

IT IS SO ORDERED.

DATED: JAN 09 2017



RAFAEL A. ONGKEKO
JUDGE OF THE SUPERIOR COURT