

DEPARTMENT 506 LAW AND MOTION RULINGS

Case Number: 25STCV27078 **Hearing Date:** July 23, 2026 **Dept:** 506

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES - CENTRAL DISTRICT**

STEPHANIE AIKIN, and LAURIE
THOMPSON,

Plaintiffs,

vs.

CITY OF ARCADIA, et al.,

Defendant.

) CASE NO.: 25STCV27078

)

) [TENTATIVE] ORDER GRANTING THE
) SPECIAL MOTION TO STRIKE THE
) FIRST AMENDED COMPLAINT

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) Dept. 48

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8:30 a.m.

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DATE 7-23-26

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On September 16, 2025, Plaintiffs Stephanie Aikin and Laurie Thompson filed a verified complaint against Defendant City of Arcadia for Violation of Open-Government Laws, and Declaratory Relief.

On October 15, 2025, Defendant filed its answer to the complaint.

On February 5, 2026, the parties stipulated to the filing of a first amended complaint. On February 9, 2026, Plaintiffs filed their first amended complaint for Violation of Federal and/or State Laws.

On April 7, 2026, Defendant filed a special motion to strike/Anti-SLAPP motion to the first amended complaint. Plaintiffs filed their opposition on July 10, 2026.

SPECIAL MOTION TO STRIKE/ANTI-SLAPP

“A cause of action against a person arising from any act of that person in furtherance of the person’s right to free speech under the United States or California Constitution in connection with a public issue shall be subject to a special motion to strike unless the court determines that the Plaintiff has established that there is a probability that Plaintiff will prevail on the claim.” (Code Civ. Proc., § 425.16, subd. (b)(1).)

“A court’s consideration of an anti-SLAPP motion involves a two step process. ‘First, the court decides whether the defendant has made a threshold showing that the challenged cause of action is one arising from protected activity. The moving defendant’s burden is to demonstrate that the act or acts of which the plaintiff complains were taken “in furtherance of the [defendant]’s right to petition or free speech under the United States or California Constitution in connection with a public issue,” as defined in the statute. [Citation.] If the court finds such a showing has been made, it then determines whether the plaintiff has demonstrated a probability of prevailing on the claim.’ [Citation.] In the second step, the plaintiff may only bring forward sufficient evidence to make out a viable prima facie case at trial, a burden that ‘is not particularly high.’ [Citation.]”. (*O&C Creditors Group, LLC v. Stephens & Stephens XII, LLC* (2019) 42 Cal.App.5th 546, 565-566.)

A. Defendants request for judicial notice of “City Council Resolution No. 7649 entitled ‘A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ARCADIA, CALIFORNIA, TO FORMALLY CENSURE MAYOR SHARON KWAN,’ adopted September 2, 2025” is granted.

B. The Resolution Under Challenge

The first amended complaint challenges “Resolution No. 7649 to formally censure Mayor Sharon Kwan,” as invalid under the City Charter barring any removal of a sitting mayor during their nine and one-half

month term rotating term as a member of the city council. The resolution provides.

“The following conduct supports the City Council's censure:

“1. Weaponizing and exploiting children, induced to give false and uninformed statements for political purposes of embarrassing the City, and Councilmembers, and to escape responsibility through the use of shills and strawmen. Use of these planted audience members subverts the democratic process, by taking valuable council and staff time, and cheapening public discourse, which discourages public participation.

“2. Demeaning the military service of veterans by stating she has done more for veterans by asserting she made unsubstantiated charitable contributions, and arguing that these were more valuable than respect and appreciation. Additionally, Mayor Kwan bestowed a commendation on a high school student for ten minutes of a City Council presentation for ‘bravery and courage,’ while at the same meeting demeaning a ten-year Iraq and Afghanistan war veteran. This disrespect for men and women in uniform, past and present, reflects negatively on the City and is inapposite to the values of Arcadia and its public officials.

“3. Knowingly falsely alleging financial impropriety by claiming there is concealment of the City's true finances and asserting that City staff is misrepresenting financial information to the City Council and public, and claims that the City staff is lying to the public, for the political purpose of undermining public confidence in City staff and the Mayor's colleagues. Additionally, the Mayor has made patently false and baseless allegations that the City's finances are headed for disaster by the City Council's conduct, or that reserves are being depleted, all without evidence, and despite being corrected by City staff with statistical evidence and City records. The Mayor has accused the City Manager and accounting staff of fraud and accounting manipulation solely because due to her own lack of diligence, and failed to obtain an accounting record which was repeatedly emailed to Mayor Kwan. Use of these shadowy and baseless allegations only serves to undermine public respect and trust for the City, its workers and representatives.

“4. Disparaging first responders, and council colleagues by accusing them of impropriety and corruption because labor organizations chose not to support her. These unfair and baseless allegations contribute to loss of public trust in our law enforcement and public safety agencies, and cause meaningless conflict based on false statements made for political gain.

“5. Making unfounded accusations of sexism against Councilmembers and staff whenever disagreements arise to deflect argument against her ill-conceived and unfounded positions on substantive issues. This conduct is a transparent attempt to deflect responsibility for the Mayor's improvident statements.

“6. Discouraging public participation by mocking and belittling constituents, including elderly residents, by implying their incompetence and deafness, simply because they were politically adversarial to her or expressed a conflicting viewpoint, attempting to intimidate opposing viewpoints and to squelch dissent.

“7. Misusing council procedures and engaging in ‘ambush techniques’ by failing to place items on the Council agenda in order to surprise her fellow Councilmembers and city staff and failing to consult department heads before raising issues that could have been resolved administratively, for the purpose of embarrassing unprepared City staff members and undermining public confidence in these officials and staffers. The Mayor has also misstated historical Council records to attempt to infer that the city staff and Council has been malfeasant.”

“8. Engaging in un-collegial behavior, unprofessional temperament, and unfounded accusations against Councilmembers simply because other Councilmembers expressed a differing viewpoint. This behavior subverts the public decision-making process. By deflecting the argument and attempting to silence dissent and statements of other Councilmembers to avoid being demonstrated wrong, the Mayor seeks to use intimidation, strong arm tactics, and fearmongering in place of reasoned decision making.” [Req. Jud. Not., Ex. A: Resolution No. 7649, Ex. “A” Findings and Support for Censure of Mayor Sharon Kwan.]

Defendant asserts the first amended complaint improperly challenges act of free speech by a governing body. The allegations of declaratory relief and Brown Act violations lack any actual identification of any Brown Act provisions establishing any basis for an alleged violation. (California Government Code section 54950, et seq.) The operative complaint challenges to the “merits” of the censure resolution based on assertions of ulterior motive and denial of the factual basis underlying the resolution, constitutes an invalid form of sought after relief.

The original complaint in fact identifies the Brown Act and seeks declaratory relief. The first amended complaint also references the Brown Act. [First Amend. Comp., ¶ 16.] Unlike the original complaint, it remains unpled whether the singular claim for “Violation of Federal and/or State Laws” constitutes a functional declaratory relief challenge or some other potential form of challenge for an alleged ultra vires

action. Regardless of the basis, Plaintiff in opposition maintains the public interest exemption applies, thereby precluding a finding of protected conduct. Further, the Brown Act constitutes a valid basis for the action.

Defendant in reply reiterates the censure constitutes a “protected activity,” with the attempted framing of the censure as an action in retaliation insufficiently excepting anti-SLAPP review under the public interest exemption.

C. The content of the public censure itself establishes First Amendment protected activity and demonstrates a “free discussion of governmental affairs.” (*Houston Community College System v. Wilson* (2022) 595 U.S. 468, 478.) The language of the censure itself presents an issue of public concern due to the comments of Councilmember Kwan not reflecting the view and conduct of the other members of the council. (*Vargas v. City of Salinas* (2009) 46 Cal.4th 1, 19.) Barring a censure demonstrating an intent to “silence other representatives” from expressing concerns regarding conduct of other publicly elected representatives, a censure constitutes a valid First Amendment protected resolution. (*Houston Community College System v. Wilson, supra*, 595 U.S. at p. 478.)

In order to avoid the application of protective activity, the first amended complaint alleges a retaliatory motive for the censure arising from a prior sexual harassment complaint made against a fellow councilmember and other accusations of sexism in government operations. [First Amend. Comp., 15(A)(2).] The removal of Councilmember Kwan from the rotating position of Mayor during the elected term, while “disciplinary” in nature, lacks any actual establishment of prior restraint or later prohibition of rights to both proceed with any sexual harassment claims or continue to protest sexism from the position of a councilmember. (*Houston Community College System v. Wilson, supra*, 595 U.S. at pp. 479-480.)

Even assuming the action as purely retaliatory, thereby necessarily decoupling any showing of protected activity from the plain language of the censure, the retaliatory position lacks specific support for such a finding. Any removal from protected activity requires a showing that the retaliatory activity somehow precludes certain powers incumbent to the position thereby effectively disenfranchising the elected member’s constituency. (*Id.* at pp. 481-482.) The relied upon section of the City Charter regarding the rotating appointment of mayors lacks any distinction as to the role of mayor versus councilmember other than presiding at meetings and performance of other delegated duties determined by the council. [First Amend. Comp., ¶¶ 8-10.]. Beyond the loss of the symbolically appearing mayoral title itself, without any contextual explanation as to actual operational impacts suffered by the appointed councilmember upon censure, Plaintiffs

present no basis for a finding of exclusion from protected activity under the public interest exemption. (*Id.*, at pp. 479-482; *Club Members for an Honest Election v. Sierra Club* (2008) 45 Cal.4th 309, 316-317.)

“(a) The Legislature finds and declares that there has been a disturbing abuse of Section 425.16, the California Anti-SLAPP Law, which has undermined the exercise of the constitutional rights of freedom of speech and petition for the redress of grievances, contrary to the purpose and intent of Section 425.16. The Legislature finds and declares that it is in the public interest to encourage continued participation in matters of public significance, and that this participation should not be chilled through abuse of the judicial process or Section 425.16.

(b) Section 425.16 does not apply to any action brought solely in the public interest or on behalf of the general public if all of the following conditions exist: (1) The plaintiff does not seek any relief greater than or different from the relief sought for the general public or a class of which the plaintiff is a member. A claim for attorney's fees, costs, or penalties does not constitute greater or different relief for purposes of this subdivision. (2) The action, if successful, would enforce an important right affecting the public interest, and would confer a significant benefit, whether pecuniary or nonpecuniary, on the general public or a large class of persons. (3) Private enforcement is necessary and places a disproportionate financial burden on the plaintiff in relation to the plaintiff's stake in the matter.” (Code Civ. Proc., § 425.17.)

“To qualify under section 425.17(b)'s exception, suits must be brought *solely* to secure this public benefit.” (*Club Members for an Honest Election v. Sierra Club* (2008) 45 Cal.4th 309, 318.) Plaintiffs appear to define the public benefit based on the Brown Act. Although not specifically cited, a specific section of the Brown Act arguably supports the basis of Plaintiffs' right to seek mandamus, injunction, or declaratory “to determine whether any rule or action by the legislative body to penalize or otherwise discourage the expression of one or more of its members is valid or invalid under the laws of this state or of the United States.” (Gov. Code, § 54960, subd. (a).)

Assuming Plaintiffs intend to rely on the subject section, nothing in the Brown Act or the relied upon case law by Plaintiff appears to actually alter the standard of review involved for determination of a “public benefit,” and therefore a basis of exemption. Simple reliance on the existence of the Brown Act itself, with conclusions of a “disciplinary” and “retaliatory” motivation for censure fails to sufficiently acknowledge the carefully articulated distinction between free speech impacts to an elected member of a public entity, and the

right of said elected member to seek personal redress of grievances pursuant to a labor law violation. (*Brown v. City of Inglewood* (2025) 18 Cal.5th 33, 54-55 [Elected officials retain rights to seek other potentially available relief].) Mere reliance on the existence of alleged retaliatory activity will not frame the complaint as one for wrongful retaliatory action given the ability of Councilmember Kwan to express any and all views. (*City of Cotati v. Cashman* (2002) 29 Cal.4th 69, 77 [“The anti-SLAPP statute cannot be read to mean that ‘any claim asserted in an action which arguably was filed in retaliation for the exercise of speech or petition rights falls under section 425.16, whether or not the claim is *based on* conduct in exercise of those rights’”].)

In other words, Plaintiffs fail to establish the censure and removal of Councilmember Kwan from the rotating Mayoral position constitutes a retaliatory action in violation of the Brown Act. Councilmember Kwan apparently remains able to express opinions about political, social and operational issues, while also submitting a claim with human resources. Nothing in the censure in any way precludes such actions.

The action therefore constitutes a personal action arising from a dispute with fellow councilmember David Fu rather than issue actually solely arising in the public interest concerning the disenfranchisement of the represented public. (*Byrne v. Rule* (2025) 113 Cal.App.5th 708, 716; *Sandlin v. McLaughlin* (2020) 50 Cal.App.5th 805, 823.) Even assuming retaliation for said actions, as previously addressed, the censure itself still constituted a valid action of a government entity acting in the collective public interest. The lack of any lawsuit against any individual members in no way impacts the determination for a protected activity invoking a protected activity.

D. Defendant shifted the burden thereby requiring Plaintiffs to present admissible evidence of a viable cause of action. Other than citation of the Brown Act, the operative complaint lacks actual articulation of a violation. As addressed above, the court assumes the violation arises from the censure itself based on the previously cited and quoted statutory language. The opposition also includes a declaration of Sharon Kwan, which articulates the basis for the belief in retaliatory motivation, and factual denial of the accusations. [Declaration of Sharon Kwan.]

The declaration itself offers no admissible evidence in any way establishing a basis for a valid claim of declaratory relief on grounds of the Brown Act provision for exclusive interference with the provision of public benefit. (See *Club Members for an Honest Election v. Sierra Club*, *supra*, 45 Cal.4th at p. 318.). The complaint instead appears more personally motivated based on the feud with fellow councilmember David Fu

and an interest in challenging the veracity of public criticism. A personal dispute with Councilmember Kwan presents a problem with Plaintiffs' standing to pursue to the unidentified, yet undisputed declaratory relief claim. (See *Market Lofts Community Assn. v. 9th Street Market Lofts, LLC* (2014) 222 Cal.App.4th 924, 931-932.) The first amended complaint and Plaintiffs otherwise offer no other actual basis for relief beyond the citation to the Brown Act.

Plaintiffs therefore fail to raise any evidence establishing the probable validity of any potential sought after relief in the first amended complaint.

CONCLUSION

The special motion to strike/anti-SLAPP motion is GRANTED as to the entire action. The case is dismissed with prejudice.

Defendant to give notice.

Parties who intend to submit on this tentative must send an email to the Court at SMCDEPT48@lacourt.org indicating intention to submit. If all parties in the case submit on the tentative ruling, no appearances before the Court are required unless a companion hearing (for example, a Case Management Conference) is also on calendar.

Dated this 23 day of July 2026

Hon. Thomas D. Long

Judge of the Superior Court