

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA

Gerardo Segura v. County of Santa Clara, et al.

Segura · No. 25-cv-03130-PCP · Decided January 2, 2026

SUMMARY

The United States District Court for the Northern District of California partially granted and partially denied defendants’ motions to dismiss Gerardo Segura’s retaliation claims arising from his reports of alleged hospital safety violations. The court allowed Segura’s First Amendment retaliation claim to proceed against certain defendants and denied dismissal of his California Labor Code section 1102.5(b) claim, while dismissing the First Amendment claims against Lorenz, Sproul, and Clark and the California Government Code section 12940 claim. The dismissals were without prejudice and with leave to amend within 28 days.

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	P. Casey Pitts
JURISDICTION	United States District Court for the Northern District of California
DECIDED	January 2, 2026
DOCKET	25-cv-03130-PCP
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff brought claims for First Amendment retaliation, retaliation under California Labor Code section 1102.5(b), and retaliation under California Government Code section 12940(h). Defendants moved under Federal Rule of Civil Procedure 12(b)(6) to dismiss the claims for failure to state a claim.
STANDARD OF REVIEW	On a Rule 12(b)(6) motion, the court accepts factual allegations as true and construes the pleadings in the plaintiff’s favor, but does not accept conclusory allegations, unwarranted factual deductions, or unreasonable inferences. Dismissal is appropriate when the complaint lacks a cognizable legal theory or sufficient facts to support a plausible claim for relief.
PRECEDENTIAL VALUE	unpublished district court order; precedential status unknown

TOPICS

motions to dismiss

retaliation

whistleblower

first amendment

civil procedure

PRACTICE AREAS

civil rights

employment law

constitutional law

civil procedure

health law

QUESTIONS PRESENTED

1. Whether Segura's First Amendment retaliation claim was timely as to the alleged retaliatory acts and defendants.
2. Whether Segura plausibly alleged that he spoke as a citizen on a matter of public concern rather than pursuant to his official duties.
3. Whether Segura plausibly alleged a basis for punitive damages under 42 U.S.C. § 1983.
4. Whether Segura plausibly alleged protected whistleblowing, a qualifying adverse employment action, and timeliness under California Labor Code section 1102.5(b).
5. Whether Segura plausibly alleged a causal connection between protected activity under California Government Code section 12940(h) and his termination.

HOLDINGS

1. The First Amendment retaliation claim was timely as to the County's investigation beginning in July 2023, the August 2024 termination recommendation or notice, and the September 2024 termination, but untimely as to Lorenz, Sproul, and Clark because the complaint alleged no actionable conduct by those defendants within the limitations period.
2. Segura plausibly alleged that his reports about hospital safety, medical-equipment cleaning, and alleged violations of law involved a matter of public concern.
3. Segura plausibly alleged that he spoke as a private citizen because he reported safety concerns outside his chain of command, raised broader systemic concerns, and acted contrary to a supervisor's instruction not to disclose certain information.
4. Segura plausibly alleged entitlement to punitive damages because he alleged conduct by County employees reflecting callous or reckless indifference to his First Amendment rights.
5. The County's motion to dismiss the section 1102.5(b) claim was denied because Segura plausibly alleged that he disclosed suspected legal violations to an outside agency and was terminated as a result. The claim was limited to the termination and events within the applicable claim-filing period.
6. Segura failed to plausibly allege a causal link between his report of sexual harassment in June 2022 and his termination in September 2024, particularly in light of intervening events more closely connected to the termination. The section 12940(h) claim was dismissed with leave to amend.

KEY QUOTATIONS

“Dismissal under Rule 12(b)(6) is appropriate only where the complaint lacks a cognizable legal theory or sufficient facts to support a cognizable legal theory.” (at 2)

“While Segura can still “use ... time barred acts ... as evidence to establish motive and to put his timely-filed claims in context,” those acts cannot provide the basis for any defendant’s liability.” (at 5)

“A plaintiff’s speech is on a matter of public concern as “determined by the content, form, and context of a given statement” and depends on “whether the employee aimed to bring wrongdoing to light, not merely to further some purely private interest.”” (at 7)

“All three factors favor concluding that Segura was speaking as a private citizen.” (at 8)

“Segura’s whistleblowing was not undertaken “pursuant to [his] official duties” because those duties did not require him to report outside of his chain of command.” (at 9)

FACTUAL BACKGROUND

Segura was Chief Educator in the Sterile Processing Department at Santa Clara County's Valley Medical Center. Beginning in 2022, he reported alleged violations involving cleaning medical equipment, sterile-processing standards, and patient safety to supervisors, personnel outside his chain of command, and the California Department of Public Health. After he continued reporting concerns, the County reprimanded him, placed him on a performance improvement plan, put him on involuntary leave, investigated him, recommended termination, and terminated him on September 25, 2024. Segura also reported a supervisor's alleged sexual harassment in June 2022 and claimed that his termination was retaliatory.

PROCEDURAL HISTORY

Segura filed the action in the Northern District of California on April 7, 2025, alleging that Santa Clara County and Valley Medical Center employees retaliated against him for reporting hospital safety violations and for reporting sexual harassment. The defendants moved to dismiss. The court partially denied and partially granted the motions, dismissing the First Amendment claims against Lorenz, Sproul, and Clark as untimely, dismissing the Government Code section 12940 claim for failure to plead causation, and allowing amendment of those dismissed claims.

DISPOSITION

other

REMAND INSTRUCTIONS

No remand. Any amended complaint addressing the dismissed Government Code claim and the First Amendment claims against Lorenz, Sproul, and Clark must be filed within 28 days of the order. If no amended complaint is filed, those claims will be dismissed with prejudice.

CASES CITED

- Reyn's Pasta Bella, LLC v. Visa USA, Inc., 442 F.3d 741, 746 n.6 (9th Cir. 2006)

- *Ashcroft v. Iqbal*, 556 U.S. 662, 678-79 (2009)
- *Mendiondo v. Centinela Hosp. Med. Ctr.*, 521 F.3d 1097, 1104 (9th Cir. 2008)
- *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)
- *Rowe v. Educ. Credit Mgmt. Corp.*, 559 F.3d 1028, 1029-30 (9th Cir. 2009)
- *In re Gilead Scis. Secs. Litig.*, 536 F.3d 1049, 1055 (9th Cir. 2008)
- *Jones v. Blanas*, 393 F.3d 918, 927 (9th Cir. 2004)
- *Nat'l R.R. Passenger Corp. v. Morgan*, 536 U.S. 101, 110-17 (2002)
- *Bird v. Dep't of Human Servs.*, 935 F.3d 738, 746-48 (9th Cir. 2019)
- *Carpinteria Valley Farms, Ltd. v. County of Santa Barbara*, 344 F.3d 822, 829 (9th Cir. 2003)
- *Garcetti v. Ceballos*, 547 U.S. 410, 418, 421-22 (2006)
- *Dahlia v. Rodriguez*, 735 F.3d 1060, 1067, 1074-78 (9th Cir. 2013)
- *Greisen v. Hanken*, 925 F.3d 1097, 1109 (9th Cir. 2019)
- *Connick v. Myers*, 461 U.S. 138, 148 (1983)
- *Anthoine v. N. Cent. Cntys. Consortium*, 605 F.3d 740, 749 (9th Cir. 2010)
- *Smith v. Wade*, 461 U.S. 30, 56 (1983)
- *Morgan v. Woessner*, 997 F.2d 1244, 1255 (9th Cir. 1993)
- *Lawson v. PPG Architectural Finishes, Inc.*, 12 Cal. 5th 703, 712 (2022)
- *Willis v. City of Carlsbad*, 48 Cal. App. 5th 1104, 1118 (2020)
- *Yanowitz v. L'Oreal USA, Inc.*, 36 Cal. 4th 1028, 1042 (2005)
- *Pickering v. Bd. of Educ.*, 391 U.S. 563 (1968)
- *Eng v. Cooley*, 552 F.3d 1062, 1070 (9th Cir. 2009)
- *Weintraub v. Bd. of Educ. of City Sch. Dist.*, 593 F.3d 196, 205-06 (2d Cir. 2010)

OPINION

1 2 3 4 UNITED STATES DISTRICT COURT 5 NORTHERN DISTRICT OF CALIFORNIA 6 7
 GERARDO SEGURA, Case No. 25-cv-03130-PCP 8 Plaintiff, ORDER GRANTING IN PART
 AND 9 v. DENYING IN PART DEFENDANTS' MOTION TO DISMISS 10 COUNTY OF
 SANTA CLARA, et al., Defendants. 11 12 Plaintiff Gerardo Segura sued the County of Santa
 Clara and various employees of the 13 County's Valley Medical Center for firing him in retaliation
 for reporting alleged safety violations 14 at the hospital.

Segura argues that his firing violated the First Amendment, California Government 15 Code
 Section 12940, and California Labor Code Section 1102.5, and seeks compensatory and 16
 punitive damages. Defendants move to dismiss Segura's suit for failure to state a claim.¹ For the
 17 following reasons, the Court denies in part and grants in part defendants' motion to dismiss the
 18 First Amendment claim, denies the County's motion to dismiss the Labor Code claim, and
 grants 19 the County's motion to dismiss the Government Code claim.² 20 BACKGROUND 21
 Plaintiff Gerardo Segura was Chief Educator in the Sterile Processing Department at the 22

County of Santa Clara's Valley Medical Center.³ Segura alleges that he told his superiors that the
23 1 Defendant Clark moved separately from the others and only as to the First Amendment claim,
24 which is the only claim asserted against her.

25 2 The County defendants (all defendants except Clark) move for judicial notice of a set of
documents. Dkt. 28. This court "may take judicial notice of court filings and other matters of 26
public record." See Reyn's Pasta Bella, LLC v. Visa USA, Inc., 442 F.3d 741, 746 n.6 (9th Cir.
2006).

The documents of which the County defendants seek judicial notice are state court 27 documents
and a job description, and Segura does not oppose the County's request. The defendants' request is
therefore granted. 1 hospital was failing to follow sterile processing standards. Beginning in
February 2022, Segura 2 reported health violations to his higher-ups at the medical center.

On June 30, 2022, Segura filed a 3 sexual harassment complaint against one of his superiors, not a
party to this litigation, which the 4 County's Equal Opportunity Division sustained months later. In
September 2022, concerned about 5 "what [Segura] reasonably believed were violations of law
including the withholding of 6 information about the cleaning of medical equipment, safety issues,
[and] improper use of wire 7 brushes on medical instruments," Segura continued to report his
concern to both his superiors and 8 the California Department of Public Health.

Segura alleges that defendants received his reports but 9 "communicated ... that he should limit
himself to educating, and stay in his lane or words to that 10 effect." 11 In October 2022, after
Segura told superiors that he was reporting his concerns about 12 safety practices to others, the
County wrote Segura a letter of reprimand and put him on a 13 performance improvement plan,
which Segura says was "baseless ... and constituted additional 14 acts of retaliation." In January
2023, despite allegedly telling Segura that he had resolved the 15 issues that led to the letter of
reprimand and performance improvement plan, Segura was placed on 16 involuntary leave.

Shortly thereafter, in February and March 2023, Segura complained to the 17 County of
retaliation. In September 2023 and January 2024, Segura also filed state court lawsuits 18 alleging
retaliation by the County, which were eventually consolidated.

The County investigated 19 Segura from January 2023 until August 2024, when it recommended
Segura's termination, which 20 occurred on September 25, 2024. 21 After his termination, Segura
filed another complaint with the County in January 2025, 22 which the county rejected on March
7, 2025.

On April 7, 2025, Segura filed the instant suit against 23 the County of Santa Clara and Valley
Medical Center leaders including CEO Paul Lorenz, Chief 24 Nursing Officer Jill Sproul, Director
of Nursing and Chief Nursing Officer Andrea Brollini, Surgical Department Manager Gina

Bommarito, Interim Director of Nursing Garinderjit Gill, and 25 Interim Manager of Sterile Processing Department Penese Clark.

The defendants except for Clark 26 27 1 thereafter moved to dismiss his complaint in its entirety for failure to state a claim, and Clark 2 moved to dismiss only his First Amendment claim. Dkts. 27, 29. 3 LEGAL STANDARD 4 Federal Rule of Civil Procedure 8(a)(2) requires a complaint to include a “short and plain 5 statement of the claim showing that the pleader is entitled to relief.” If the complaint does not do 6 so, the defendant may move to dismiss the complaint under Federal Rule of Civil Procedure 7 12(b)(6).

Dismissal is required if the plaintiff fails to allege facts allowing the court to “draw the 8 reasonable inference that the defendant is liable for the misconduct alleged.” *Ashcroft v. Iqbal*, 556 9 U.S. 662, 678 (2009). “Dismissal under Rule 12(b)(6) is appropriate only where the complaint 10 lacks a cognizable legal theory or sufficient facts to support a cognizable legal theory.” 11 *Mendiondo v. Centinela Hosp.*

Med. Ctr., 521 F.3d 1097, 1104 (9th Cir. 2008). To survive a Rule 12 12(b)(6) motion, a plaintiff need only plead “enough facts to state a claim to relief that is plausible 13 on its face.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). 14 In considering a Rule 12(b)(6) motion, the Court must “accept all factual allegations in the 15 complaint as true and construe the pleadings in the light most favorable” to the non-moving party.

16 *Rowe v. Educ. Credit Mgmt. Corp.*, 559 F.3d 1028, 1029–30 (9th Cir. 2009). While legal 17 conclusions “can provide the [complaint’s] framework,” the Court will not assume they are correct 18 unless adequately “supported by factual allegations.” *Iqbal*, 556 U.S. at 679. Courts do not “accept 19 as true allegations that are merely conclusory, unwarranted deductions of fact, or unreasonable 20 inferences.” *In re Gilead Scis.*

Secs. Litig., 536 F.3d 1049, 1055 (9th Cir. 2008) (quoting *Sprewell 21 v. Golden State Warriors*, 266 F.3d 979, 988 (9th Cir. 2001)). 22 ANALYSIS 23 The County defendants move to dismiss all of Segura’s claims, while Clark moves to 24 dismiss only Segura’s First Amendment claim.

I. First Amendment Retaliation 25 A. Timeliness 26 Defendants contend that Segura’s First Amendment claim is time-barred. Because Segura 27 1 California’s two-year statute of limitations for personal injury actions. See *Jones v. Blanas*, 393 2 F.3d 918, 927 (9th Cir. 2004). Segura filed his initial complaint on April 7, 2025, so only claims 3 arising from events that occurred on or after April 7, 2023, are timely.

4 Many of the events Segura relies upon to support his First Amendment retaliation claim 5 occurred before that date. Segura alleges, for example, that he reported “patient safety-related 6 violations relating to ‘point of use’ cleaning to” his managers and filed a complaint of sexual 7 harassment against a different supervisor in 2022. These events occurred outside the statute of 8

limitations and therefore cannot provide any basis for liability unless Segura can provide a legal basis for extending the statute.

But Segura also alleges actionable events falling within the two- 10 year limitations period, such as the County's investigation into Segura through October 2023, its 11 August 9, 2024, recommendation that Segura be terminated, and Segura's termination on 12 September 25, 2024.

In particular, Segura alleges that Brollini, Bommarito, and Gill "engaged in 13 additional retaliation by making false accusations and accused Mr. Segura of misconduct during 14 purported investigatory meetings conducted throughout 2023." He also alleges that Brollini and 15 Gill "recommended that Mr. Segura be terminated from his employment." Segura has thus alleged 16 that unlawful actions were taken by the County, Brollini, Bommarito, and Gill within the 17 limitations period.

18 Segura's claim is untimely, however, as to Lorenz, Sproul, and Clark. Segura's only 19 allegations regarding Lorenz are that Segura emailed superiors, including Lorenz, around May 20, 20 2022.⁴ Segura's only allegations regarding Sproul are that, in July and August 2022, he told her 21 about retaliation and that, in January 2023, she was present at the meeting where Segura was 22 placed on involuntary leave.

And Segura alleges that around October 2022, Clark covered up 23 safety concerns and reprimanded Segura for reporting safety concerns to the California 24 Department of Public Health. All of these events occurred before the limitations period and therefore cannot give rise to liability. 5 25 26 4 Although Segura's complaint suggests at one point that this email was sent on May 20, 2024, it 27 is clear in context that this was a typographical error.

1 Segura argues that the "continuing violation" doctrine allows him to rely upon conduct by 2 Clark that occurred before April 7, 2023. Specifically, Segura argues that he satisfies the "serial 3 acts" branch of that doctrine, which groups together "sufficiently related" acts such that a plaintiff 4 can recover for all related acts if at least one act is timely.

See Nat'l R.R. Passenger Corp. v. 5 Morgan, 536 U.S. 101, 117 (2002); Bird v. Dep't of Human Servs., 935 F.3d 738, 746–47 (9th Cir. 6 2019). In his view, Clark's actions "were part of a broader, coordinated campaign of retaliation 7 culminating in termination on September 25, 2024." 8 The Supreme Court and the Ninth Circuit, however, have generally limited the "serial acts" 9 theory to hostile work environment allegations.

As the Morgan Court explained, "A discrete 10 retaliatory or discriminatory act 'occur[s]' on the day that it 'happened'" and is easier to identify 11 than a hostile workplace claim. 536 U.S. at 110–15. The continuing violation doctrine is limited to 12 claims whose "very nature involves repeated conflicts" that "cannot be said to occur on any 13 particular day." See Morgan, 536 U.S. at 115; Bird, 935 F.3d at 748.

14 Here, Segura challenges discrete acts of retaliation—including most notably his 15 termination—rather than a series of hostile actions that could only be identified as retaliatory when 16 considered in their totality. Segura therefore cannot rely on a continuing violation theory to 17 premise liability on events occurring before April 7, 2023. While Segura can still “use ... time 18 barred acts ... as evidence to establish motive and to put his timely-filed claims in context,” those 19 acts cannot provide the basis for any defendant’s liability.

Carpinteria Valley Farms, Ltd. v. 20 County of Santa Barbara, 344 F.3d 822, 829 (9th Cir. 2003).
21 Accordingly, Segura’s First Amendment retaliation claim is timely as to the 2023 22 investigation beginning on July 7, 2023, the August 2024 termination notice, and the September 23 2024 termination. That claim is untimely as to defendants Lorenz, Sproul, and Clark, and Segura’s 24 First Amendment claim against those defendants is dismissed with leave to amend only to the extent Segura can in good faith allege that any of those defendants engaged in unlawful conduct 25 within the statute of limitations.

26 27 1 B. Merits 2 The First Amendment protects a public employee’s speech if two conditions are met. The 3 first condition is that “the employee spoke as a citizen on a matter of public concern.” *Garcetti v. 4 Ceballos*, 547 U.S. 410, 418 (2006).

The Court has explained that the “controlling factor” in this 5 inquiry is that the plaintiff did not make their statements “pursuant to [their] duties.” *Id.* at 421. If 6 the first condition is satisfied, the First Amendment still does not protect a public employee’s 7 speech if “the relevant government entity had an adequate justification for treating the employee 8 differently from any other member of the general public.” *Id.* at 418.

The Ninth Circuit has broken 9 the overall inquiry into five parts: “(1) whether the plaintiff spoke on a matter of public concern; 10 (2) whether the plaintiff spoke as a private citizen or public employee; (3) whether the plaintiff’s 11 protected speech was a substantial or motivating factor in the adverse employment action; (4) 12 whether the state had an adequate justification for treating the employee differently from other 13 members of the general public; and (5) whether the state would have taken the adverse 14 employment action even absent the protected speech.” *Dahlia v. Rodriguez*, 735 F.3d 1060, 1067 15 (9th Cir.

2013) (discussing *Pickering v. Bd. of Educ.*, 391 U.S. 563 (1968) and quoting *Eng v. 16 Cooley*, 552 F.3d 1062, 1070 (9th Cir. 2009)). The County defendants argue that Segura fails to 17 satisfy the first two conditions: that he was speaking on a matter of public concern and that he was 18 speaking as a private citizen as opposed to as a public employee. 19 1.

Matter of Public Concern 20 A plaintiff’s speech is on a matter of public concern as “determined by the content, form, 21 and context of a given statement” and depends on “whether the employee aimed to bring 22 wrongdoing to light, not merely to further some purely private interest.” *Greisen*

v. Hanken, 925 F.3d 1097, 1109 (9th Cir. 2019) (cleaned up). Someone speaking on a matter of public concern might “seek to bring to light actual or potential wrongdoing or breach of public trust,” *Connick v. Myers*, 461 U.S. 138, 148 (1983), or expose official misconduct, see *Dahlia*, 735 F.3d at 1067–68.

A plaintiff does not need to “air his concerns publicly” for his speech to involve a matter of public concern. *Anthoine v. N. Cent. Cnty. Consortium*, 605 F.3d 740, 749 (9th Cir. 2010). Segura was not acting “merely to alert his superiors and public health authorities to his concerns. Segura was not acting ‘merely to further some purely private interest’ because, according to Segura, his speech ‘involve[d] violations of law concerning regulating hospital standards relating to patient safety,’ which are relevant for public accountability and the ‘health and safety of patients ... and the general public.’” *Greisen*, 925 F.3d at 1109.

Segura’s actions included reporting “his concerns about cleaning process issues,” to the California Department of Public Health, which oversees California’s public hospital system. Segura’s speech regarding his safety concerns therefore involved a matter of public concern. Speaking as a Private Citizen The Ninth Circuit has identified three principles to use in determining whether a plaintiff spoke as a public employee or as a private citizen.

First, courts consider whether the employee spoke within their “chain of command” only or reported their speech outside that chain to others. *Dahlia*, 735 F.3d at 1074. Second, courts consider whether the subject matter of their speech is “typically within [their] job duties” or instead involves “rais[ing] ... broad concerns about corruption or systemic abuse.” *Id.* at 1074–75.

Third, courts consider whether the public employee spoke “in direct contravention to his supervisor’s orders.” *Id.* at 1075. All three factors favor concluding that Segura was speaking as a private citizen. First, while Segura did speak within his “chain of command” by alerting supervisors to his concerns, Segura allegedly also reported his concerns to those outside his chain of command on at least two occasions.

Segura reported the “unsafe and improper use of wire brush to clean surgical instruments for use in the Pulmonary-Respiratory Department” to a respiratory therapist in that department who was not in Segura’s chain of command (or department).

Second, Segura reported his concerns to the California Department of Public Health. As in *Dahlia*, where a Burbank Police Department officer disclosed concerns about fellow officers to the Los Angeles Sheriff’s Department, the respiratory therapist was not in Segura’s department and the California Department of Public Health was “an outside agency altogether.” *Dahlia*, 735 F.3d at 1077–78.

26 The first factor thus favors Segura. 27 1 abuse.” Id. at 1074–75. Segura alleges that his reports involved not isolated incidents related to his 2 job duties but a broader culture of covering up safety shortcomings. Segura alleges that starting in 3 February 2022, he reported to superiors that “the County was not implementing and enforcing 4 Point of Use Treatment standards resulting in risks [to] the safety of patients or staff or both.” 5 Segura also alleges that around May 20, 2022, he emailed superiors “reporting the County’s 6 failure to implement and enforce standards for water quality and cleaning of medical containers 7 causing risk to the safety of patients or staff or both.” Segura again reported safety concerns 8 around June 6, 2022.

9 Third, Segura spoke in “direct contravention” of his superior’s order. See *Dahlia*, 735 F.3d 10 at 1077. Segura has pleaded, for example, that before informing the respiratory therapist of alleged 11 improper uses of the wire brush, defendant Clark (Segura’s supervisor at the time) told him “to not 12 disclose the improper use of the wire brush, and withhold the fact of improper use from [the 13 therapist].” 14 Defendants argue that Segura was speaking as a public employee rather than as a private 15 citizen because his job involved reporting safety concerns.

See *Garcetti*, 547 U.S. at 421 (“[W]hen 16 public employees make statements pursuant to their official duties, the employees are not speaking 17 as citizens for First Amendment purposes....”). Segura alleges that his job duties included 18 “educating sterile processing technicians, but not completing tasks himself, managing technicians, 19 or enforcing standards—which were the responsibilities of supervisors and managers above Mr. 20 Segura.” None of these duties involve reporting safety issues.

The county defendants nonetheless 21 argue, based on Segura’s job description, that the job’s requirements also included that he know 22 legal requirements, “[o]versee daily [Sterile Processing] department quality control,’ including 23 ‘error detection’ and ‘developing improvement programs,’ as well as ‘daily activity, and 24 improvement planning and implementation’ to meet those standards.” In the County’s view, Segura had an obligation to “‘oversee’ and ensure that his department was compliant with safety 25 standards,” which “relate[d] to” meeting legal requirements, including reporting safety concerns.

26 But even assuming Segura’s job description included overseeing safety compliance, that would 27 1 here because the quoted job duties do not encompass reporting those concerns outside Segura’s 2 chain of command or outside of the hospital. 3 Moreover, the County defendants read *Garcetti* too broadly. They argue for the categorical 4 rule that if speech “owes its existence to a public employee’s responsibilities,” then the plaintiff is 5 speaking as a public employee, not a private citizen.

See *Garcetti*, 547 U.S. at 421–22. But the 6 prosecutor’s speech in *Garcetti* “owe[d] its existence to [that] public employee’s responsibilities” 7 in the narrow sense that that speech was made “pursuant to [his] official duties.” Id. at 421.

The 8 County's overly broad reading of *Garcetti* would suggest that any speech based on information a 9 whistleblower learned on their job would be unprotected by the First Amendment because such 10 information "owes its existence" to that employee's responsibilities. *Id.*; see also *Weintraub v. Bd. 11 of Educ. of City Sch. Dist.*, 593 F.3d 196, 205–06 (2d Cir.

2010) (Calabresi, J., dissenting) 12 (rejecting the expansion of *Garcetti*'s requirement that public employee speech be "pursuant to 13 official duties" to include speech "in furtherance of" "core duties"). Neither the Supreme Court 14 nor the Ninth Circuit has ever adopted such a rule. 15 The County defendants try to distinguish *Segura* from the police chief in *Greisen v. 16 Hanken*, 925 F.3d 1097, who was retaliated against for raising concerns about budgeting practices.

17 They note that the police chief's job responsibilities did not include city finances, while *Segura*'s 18 job did involve some responsibility for overseeing safe sterilization practices. But what matters for 19 the First Amendment is whether the speech at issue was made "pursuant to [the employee's] 20 official duties." *Garcetti*, 547 U.S. at 421. *Segura*'s whistleblowing was not undertaken "pursuant 21 to [his] official duties" because those duties did not require him to report outside of his chain of 22 command.

23 For these reasons, *Segura* has adequately alleged that he was speaking on a matter of 24 public concern as a private citizen. The remaining defendants' motion to dismiss the First Amendment claim against them is therefore denied. 25 C. Punitive Damages 26 Punitive damages may be awarded for § 1983 violations "when the defendant's conduct is 27 1 indifference to the federally protected rights of others." *Smith v. Wade*, 461 U.S. 30, 56 (1983).

2 Whether a defendant acted with the requisite motive for punitive damages is ordinarily a question 3 for a jury. See *id.*; see also *Morgan v. Woessner*, 997 F.2d 1244, 1255 (9th Cir. 1993) ("It is well 4 established that a jury may award punitive damages under section 1983 either when a defendant's 5 conduct was driven by evil motive or intent, or when it involved a reckless or callous indifference 6 to the constitutional rights of others.") (internal quotation marks omitted).

Here, *Segura* alleges 7 that in the buildup to his termination defendants *Brollini*, *Bommarito*, and *Gil* retaliated against him 8 for raising safety concerns and ultimately caused his termination. "[A]ccept[ing] all factual 9 allegations in the complaint as true and constru[ing] the pleadings in the light most favorable" to 10 *Segura*, *Rowe*, 559 F.3d at 1029–30, *Segura* has plausibly alleged that the defendants exhibited 11 callous or reckless indifference to his First Amendment rights.

Defendants' motion to dismiss 12 *Segura*'s request for punitive damages is therefore denied. 13 II. California Labor Code Section 1102.5(b) 14 California Labor Code Section 1102.5(b) forbids an employer from retaliating against "an 15 employee for disclosing information ... if the employee

has reasonable cause to believe that the 16 information discloses” a violation of a state or federal law or rule.

If a plaintiff shows that their 17 “protected whistleblowing was a ‘contributing factor’ to an adverse employment action,” then the 18 employer must show “that the alleged adverse employment action would have occurred ‘for 19 legitimate, independent reasons’ even if the employee had not engaged in protected 20 whistleblowing activities.” *Lawson v. PPG Architectural Finishes, Inc.*, 12 Cal. 5th 703, 712 21 (2022).

22 In moving to dismiss Segura’s Section 1102.5(b) claim, the County first argues that the 23 claim is untimely at least in part.⁶ In California, the Government Claims Act requires a plaintiff 24 suing a public agency to submit their claim to that agency before bringing their suit. See *Willis v. City of Carlsbad*, 48 Cal. App. 5th 1104, 1118 (2020). Personal injury claims must be submitted 25 within six months of the accrual of the cause of action and other claims within one year.

Id. Both 26 27 1 parties agree that the relevant claim was filed on January 28, 2025. Segura contends that his 2 September 25, 2024, termination is the actionable event and correctly contends that a claim 3 premised on that termination is timely because he was terminated less than six months before 4 January 28, 2025.

As with his § 1983 cause of action, however, events falling more than six 5 months before Segura submitted his claim on January 28, 2025, such as Clark allegedly 6 “physically provok[ing]” Segura, are not actionable.

Therefore, Segura can properly pursue a 7 Section 1102.5 claim only as to his termination and events within the relevant limitations period. 8 The County separately argues that Segura fails to state a Section 1102.5 claim because he 9 alleges that he disclosed only “internal, interpersonal disputes” rather than any violation of a law 10 or rule and he has not pleaded an adverse employment action.

But Segura pleads that he reported 11 concerns about health violations to an external state agency, the California Department of Public 12 Health, in September 2022. He also pleads that, after the public health agency “determined that the 13 County had, in fact, engaged in multiple violations,” Segura’s managers retaliated by placing 14 Segura on involuntary leave and ultimately initiating the process that led to his termination.

Thus, 15 Segura has plausibly alleged that he disclosed concerns about violations to an outside agency— 16 protected whistleblowing—and that the County and its managers terminated him as a result—the 17 adverse employment action.

The County defendants’ motion to dismiss the Section 1102.5(b) 18 claim is therefore denied. 19
III. California Government Code Section 12940 20 California Government Code Section 12940(h)

prohibits “any employer” from 21 “discharg[ing], expel[ling], or otherwise discriminat[ing] against any person because the person 22 has opposed any practices forbidden under this part or because the person has filed a complaint, 23 testified, or assisted in any proceeding under this part.” A plaintiff must show “(1) he or she 24 engaged in a ‘protected activity,’ (2) the employer subjected the employee to an adverse employment action, and (3) a causal link existed between the protected activity and the employer’s 25 action.” *Yanowitz v. L’Oreal USA, Inc.*, 36 Cal. 4th 1028, 1042 (2005).

26 Segura alleges that Santa Clara County violated Section 12940(h) by terminating his 27 1 employee Angelina Pagliosotti. The problem with Segura’s Section 12940(h) claim is that he fails 2 || to plausibly allege “a causal link... between the protected activity and the employer’s action.” 3 Segura alleges that his protected activity was the reporting of Pagliosotti’s sexual harassment, 4 || while alleging that the adverse employment action was his termination.

But Segura’s complaint 5 || does not plausibly explain how his reporting of Pagliosotti’s sexual harassment led to the 6 || termination of his employment more than two years thereafter. To the contrary, he pleads several 7 other intervening events with a much stronger temporal connection to the alleged retaliation, such 8 as his whistleblowing to the California Department of Public Health.

His complaint thus fails to g || plead facts supporting the plausible inference that the county terminated his employment in 10 September 2024 because of his having complained about sexual harassment in June 2022. The 11 County’s motion to dismiss the Section 12940(h) claim is therefore granted. q 12 CONCLUSION 5 13 For the above reasons, defendants’ motions to dismiss Segura’s First Amendment claim is S 14 || denied except as to Lorenz, Sproul, and Clark.

The County’s motion to dismiss his Government 3 15 Code claim is granted, and its motion to dismiss Segura’s Labor Code claim is denied. The 16 || dismissal of the Section 12940 claim and the First Amendment claims against Lorenz, Sproul, and 5 17 Clark is without prejudice and with leave to amend. Any amended complaint must be filed within 5 1g || 28 days of this Order.

If no amended complaint is filed, Segura’s Section 12940 claim and the 19 First Amendment claims against Lorenz, Sproul, and Clark will be dismissed with prejudice. 20 IT IS SO ORDERED. Dated: January 2, 2026 22 23 MaW~ P. Casey Pitts 24 United States District Judge 25 26 27 28