

CALIFORNIA COURT OF APPEAL, SECOND APPELLATE DISTRICT,  
DIVISION FIVE

Di Lauro v. City of Burbank

Di Lauro · No. B334408 · Decided April 23, 2025

SUMMARY

The California Court of Appeal held that the California Public Records Act does not permit the plaintiff to pursue the alleged class claims on the facts pleaded, because the statutory judicial remedy is limited to enforcing the requesting person’s own right to inspect or receive records. The court nevertheless concluded that the complaint sufficiently stated the plaintiff’s individual CPRA claim concerning the City of Burbank’s failure to respond to her requests. The judgment was reversed and the matter remanded with directions to sustain the demurrer as to the class claims and overrule it as to the individual claim.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
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| COURT                 | California Court of Appeal, Second Appellate District, Division Five                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| WRITING FOR THE COURT | Hoffstadt, P. J.; Moor, J.; Kim, J.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| JURISDICTION          | California Court of Appeal, Second Appellate District, Division Five                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| DECIDED               | April 23, 2025                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| DOCKET                | B334408                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| DISPOSITION           | reversed_and_remanded                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| PROCEDURAL POSTURE    | Appeal from a judgment entered after the superior court sustained the City’s demurrer without leave to amend in a putative class action alleging violations of the California Public Records Act and the California Constitution. The Court of Appeal treated the appeal as a petition for extraordinary writ relief to the extent necessary.                                                                                                                                                                                                          |
| STANDARD OF REVIEW    | Review of an order sustaining a demurrer is de novo. The court accepts properly pleaded facts as true, gives the complaint a reasonable interpretation, and determines whether it states a cause of action under any legal theory. A demurrer may resolve class allegations only when, assuming the truth of the complaint’s factual allegations, there is no reasonable possibility that class-certification requirements can be satisfied. Disputed facts may not be resolved through judicial notice on demurrer. If leave to amend was denied, the |

|                           |                                                                                                   |
|---------------------------|---------------------------------------------------------------------------------------------------|
|                           | court considers whether there is a reasonable possibility the defect could be cured by amendment. |
| <b>PRECEDENTIAL VALUE</b> | Published and certified for publication; precedential California Court of Appeal opinion.         |
| <b>PARTIES</b>            | Desolina Di Lauro v. City of Burbank                                                              |

## TOPICS

writ of certiorari appellate procedure statutory interpretation municipal law class actions

## PRACTICE AREAS

municipal law public records civil procedure appellate procedure class actions statutory interpretation remedies

## QUESTIONS PRESENTED

1. Whether the Court of Appeal had jurisdiction to review the CPRA ruling through an appeal from the final judgment or should treat the appeal as a petition for extraordinary writ relief.
2. Whether the CPRA permits a plaintiff to pursue class relief for alleged violations involving the City's failure to respond to records requests or failure to provide a request mechanism.
3. Whether the complaint adequately alleged an ascertainable class and substantial benefits from class treatment.
4. Whether the complaint stated an individual CPRA claim by alleging that Di Lauro submitted a public-records request to a City department and that the City failed to respond timely or produce the requested records.
5. Whether the City could rely on its attorney letter and employee declaration to establish disputed facts through judicial notice at the demurrer stage.
6. Whether class relief was available under the California Constitution independently of the CPRA.

## HOLDINGS

1. Because CPRA challenges ordinarily must be brought by extraordinary writ within the statutory period, the court exercised its discretion to treat Di Lauro's appeal as a petition for writ relief to the extent appellate jurisdiction was in question.
2. The CPRA does not permit Di Lauro to pursue class relief on the facts alleged because its judicial-enforcement provisions authorize a person to enforce that person's own right to inspect or receive particular public records, not the rights of absent class members or generalized claims concerning agency practices.
3. Even assuming class relief were permissible under the CPRA, the complaint did not allege facts showing a reasonable possibility of an ascertainable class or that class certification would provide a substantial

benefit.

4. The California Constitution's directive favoring broad construction of laws that further public access does not independently authorize the proposed class claim, which would also fail for the same class-certification deficiencies.
5. The complaint adequately stated an individual CPRA claim by alleging that Di Lauro submitted a public-records request to the City's DWP and that the City failed to respond within the statutory period or produce the requested records.

#### KEY QUOTATIONS

*“The judicial remedy set forth in the CPRA is available only to a person or entity who is seeking disclosure of public records and only where the public entity is allegedly improperly withholding those records.” (at 10)*

*“We therefore conclude the trial court properly sustained the demurrer as to plaintiff’s class claim under the CPRA without leave to amend.” (at 13)*

*“These allegations are sufficient to state an individual claim for relief under the CPRA.” (at 22)*

*“Even if we were to take judicial notice of a declaration that the City conducted a search and found no such request, all the City has done is raise a factual dispute, and we decline to entertain such a dispute on appeal of an order sustaining a demurrer.” (at 24)*

#### FACTUAL BACKGROUND

The City maintained a website and email address for public-records requests, while its Department of Water and Power maintained a separate website with a contact portal but no identified method specifically for requesting public records. Di Lauro alleged that she submitted three requests for her past electric bills through the DWP website in January and March 2023 and received neither the records nor a timely response. She sued individually and on behalf of proposed classes alleging that the City violated the CPRA by failing to respond and by failing to provide a request mechanism on the DWP website.

#### PROCEDURAL HISTORY

Di Lauro filed a putative class action alleging that the City failed to respond to her public-records requests and failed to provide a means to submit California Public Records Act requests through the Department of Water and Power website. The superior court sustained the City's demurrer without leave to amend and entered judgment for the City, while denying the City's sanctions motion. The Court of Appeal reversed the judgment and directed the superior court to sustain the demurrer as to the class claim but overrule it as to Di Lauro's individual CPRA claim.

#### DISPOSITION

reversed\_and\_remanded

#### REMAND INSTRUCTIONS

The superior court must enter a new and different order sustaining the City's demurrer to the class action claim and overruling the demurrer to Desolina Di Lauro's individual claim. Each party bears its own costs on appeal.

#### CASES CITED

- Doe v. Regents of University of California (2022) 80 Cal.App.5th 282, 291
- Committee to Support Recall of Gascón v. Logan (2023) 94 Cal.App.5th 352, 367–369
- Austin v. City of Burbank (2021) 67 Cal.App.5th 654, 656
- Summers v. Superior Court (2018) 24 Cal.App.5th 138, 142
- T.H., a Minor, etc., et al. v. Novartis Pharmaceuticals Corporation, T.H. v. Novartis Pharmaceuticals Corp. (2017) 4 Cal.5th 145, 162
- Mathews v. Becerra (2019) 8 Cal.5th 756, 762
- Maarten v. Cohanad (2023) 95 Cal.App.5th 596, 608–610
- Shaw v. Los Angeles Unified School District (2023) 95 Cal.App.5th 740, 761–767
- Sierra Club v. Superior Court (2013) 57 Cal.4th 157, 165–166
- City of San Jose v. Superior Court (2017) 2 Cal.5th 608, 616–617
- King v. CompPartners, Inc. (2018) 5 Cal.5th 1039, 1050
- Iloh v. Regents of University of California (2023) 87 Cal.App.5th 513, 522–523
- Long Beach Police Officers Assn. v. City of Long Beach (2014) 59 Cal.4th 59, 67
- Marken v. Santa Monica-Malibu Unified School Dist. (2012) 202 Cal.App.4th 1250, 1262–1263
- Filarsky v. Superior Court (2002) 28 Cal.4th 419, 426–427
- San Lorenzo Valley Community Advocates for Responsible Education v. San Lorenzo Valley Unified School Dist. (2006) 139 Cal.App.4th 1356, 1411–1415
- County of Santa Clara v. Superior Court (2009) 171 Cal.App.4th 119, 127
- County of San Benito v. Superior Court (2023) 96 Cal.App.5th 243, 265
- Franchise Tax Bd. Limited Liability Corp. Tax Refund Cases (2018) 25 Cal.App.5th 369, 387
- City of Gilroy v. Superior Court (2023) 96 Cal.App.5th 818, 823–824, 833–834
- Nightingale v. U.S. Citizenship & Immigration Services (N.D. Cal. 2019) 333 F.R.D. 449, 453
- Davis v. Astrue (N.D. Cal. 2008) 250 F.R.D. 476, 483
- Feinman v. F.B.I. (D.D.C. 2010) 269 F.R.D. 44, 49
- Knox v. Westly (E.D. Cal. Nov. 1, 2006, No. 2:05-CV-2198-MCE-KJM), 2006 WL 3147683, at \*4
- John Doe G v. Department of Corrections (Wash. Ct. App. 2017) 197 Wn.App. 609, 391 P.3d 496
- Maarten v. Cohanad (2023) 95 Cal.App.5th 596, 609–610, 619–623
- Brinker Restaurant Corp. v. Superior Court (2012) 53 Cal.4th 1004, 1021, 1024
- Duran v. U.S. Bank National Assn. (2014) 59 Cal.4th 1, 28
- In re Tobacco II Cases (2009) 46 Cal.4th 298, 313
- Community Youth Athletic Center v. City of National City (2013) 220 Cal.App.4th 1385, 1419
- Evans v. City of Berkeley (2006) 38 Cal.4th 1, 6
- Fremont Indemnity Co. v. Fremont General Corp. (2007) 148 Cal.App.4th 97, 115

- *Quelimane Co. v. Stewart Title Guaranty Co.* (1998) 19 Cal.4th 26, 38–39
- *City of Dinuba v. County of Tulare* (2007) 41 Cal.4th 859, 865

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