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CITY AND COUNTY OF SAN FRANCISCO
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9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF SAN FRANCISCO - UNLIMITED JURISDICTION
11

12 RAMONA MAYON,

13 Petitioner,

14 vs.

15 CITY AND COUNTY OF SAN
FRANCISCO,

16 Respondent.
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Case No. CGC-20-588010

**RESPONDENT'S MEMORANDUM OF POINTS
AND AUTHORITIES IN OPPOSITION TO
MOTION FOR PERMISSION TO SUBMIT
FIRST AMENDED COMPLAINT**

Hearing Date: April 2, 2024
Hearing Judge: Hon. Richard B. Ulmer
Time: 9:30 a.m.
Place: 302

Action Filed: November 25, 2020

Attached Documents: Exhibit A

INTRODUCTION

The California Rules of Court expressly spell out requirements as to what a motion for leave to amend a complaint before trial must contain, such as a copy of the proposed amended complaint and a declaration explaining the effect of the amendment and stating when the plaintiff discovered the facts giving rise to the amendment. Plaintiff Ramona Mayon has moved for leave to amend her complaint, which was filed over three years ago, but she has entirely ignored the Rules of Court's requirements. Her motion does not even attach a copy of the amended complaint she seeks leave to file.

The Rules of Court's requirements are not mere formalities. They are essential to allow other parties and the Court to evaluate a plaintiff's request for leave to amend her complaint. Because Plaintiff Mayon has not complied with these requirements, this Court should deny her motion.

BACKGROUND

I. NOVEMBER 2020: PLAINTIFF MAYON'S COMPLAINT AND UNSUCCESSFUL TRO APPLICATION

Acting *in propria persona*, Plaintiff Ramona Mayon commenced this lawsuit by filing her "Complaint and Ex Parte Application for a Temporary Restraining Order and Order to Show Cause" on November 25, 2020.¹ In her complaint and ex parte TRO application, Plaintiff Mayon, who apparently lived at that time in a homeless encampment located at Balboa Street and the Great Highway in San Francisco, alleged that the City had not provided that encampment with "toilets, sanitation, trash dumpsters, much less showers and food," and alleged that on November 18, 2020, City workers had undertaken to remove that encampment without providing its inhabitants with proper notice.² She sought a temporary restraining order preventing the City from removing any other homeless encampments within the City limits without proper notice or while the pandemic was not under control, and an order to show cause as to why a preliminary injunction should not issue. (Compl., pp. 2-3.)

¹ A true and correct copy of this Court's Register of Actions for this case is attached hereto as Exhibit A.

² Plaintiff acknowledged that all of the encampment's inhabitants were offered shelter either at Moscone Center or, in the case of a single inhabitant, downtown at a location where there was room for that inhabitant's tent. (Compl., ¶ 3.)

1 This Court, the Honorable Ethan Schulman, heard and denied Plaintiff Mayon’s ex parte TRO
2 and OSC application on December 2, 2020. The City answered Plaintiff’s complaint soon thereafter.

3 **II. AUGUST 2022: PLAINTIFF MAYON’S UNSUCCESSFUL MOTION TO**
4 **SUPPLEMENT HER COMPLAINT**

5 On August 8, 2022, Plaintiff Mayon filed a “Motion to Supplement Original Pleading CCP
6 464-465.” She alleged that she was on hospice for Stage 4 breast cancer, and faced the risk that the
7 RV in which she was living might be towed. She did not specify any legal theory or cause of action
8 that she sought to assert to supplement her original complaint.

9 The City opposed Plaintiff’s motion on the ground that it was not properly noticed in
10 compliance with Code of Civil Procedure Sections 1005(b) and 1013. On August 22, 2022, this Court,
11 the Honorable Richard Ulmer, took Plaintiff’s motion off calendar as untimely.

12 **III. APRIL 2024: PLAINTIFF MAYON’S MOTION FOR PERMISSION TO SUBMIT**
13 **FIRST AMENDED COMPLAINT**

14 On January 29, 2024, Plaintiff filed the instant “Motion For Permission To Submit First
15 Amended Complaint” (“Motion”). In her Motion Plaintiff asserts that she lives in an RV; that the City
16 “does absolutely nothing for people who live in RVs;” and that she had been “forced to enter the
17 Bayview Vehicle Triage Center (VTC) under threat that her RV – which allegedly was unregistered
18 and needed repairs – would be towed. (Mot. at pp. 2-3.) She alleges that “VTC is an internment camp
19 and I want out,” but also complains that the City is attempting “to get me to go into a SRO (single
20 room occupancy)” hotel. (*Id.* at p. 3.)

21 Plaintiff’s Motion consists of only a single document, containing barely more than two pages
22 of text. The motion is not accompanied by any memorandum of points and authorities. Nor does it
23 include a declaration. It also does not include the proposed First Amended Complaint that Plaintiff
24 seeks leave to file, or explain how that proposed new complaint would differ from Plaintiff’s existing
25 complaint.

26 **ARGUMENT**

27 Plaintiff’s Motion must be denied because Plaintiff has wholly ignored the California Rules of
28 Court’s requirements as to what a motion seeking leave to file an amended complaint must contain.

1 **I. THE REQUIREMENTS OF THE RULES OF COURT**

2 Rule 3.1324 of the California Rules of Court prescribes the required contents of “[a] motion to
3 amend a pleading before trial.” (*Id.*) Rule 3.1324 mandates that such a motion “must”:

- 4 (1) Include a copy of the proposed ... amended pleading, which must be serially
5 numbered to differentiate it from previous pleadings or amendments;
6 (2) State what allegations in the previous pleading are proposed to be deleted, if
7 any, and where, by page, paragraph, and line number, the deleted allegations are
8 located; and
9 (3) State what allegations are proposed to be added to the previous pleading, if
10 any, and where, by page, paragraph, and line number, the additional allegations
11 are located.

12 (*Id.*, Cal.Rules of Ct., Rule 3.1324(a).) Moreover, Rule 3.1324 requires that “[a] separate declaration
13 must accompany the motion,” which must specify the following information:

- 14 (1) The effect of the amendment;
15 (2) Why the amendment is necessary and proper;
16 (3) When the facts giving rise to the amended allegations were discovered; and
17 (4) The reasons why the request for amendment was not made earlier.

18 (*Id.*, Cal.Rules of Ct., Rule 3.1324(b).)

19 Moreover, like virtually every other motion, a motion for leave to file an amended complaint
20 must include “a supporting memorandum,” which “must contain a statement of facts, a concise
21 statement of the law, evidence and arguments relied on, and a discussion of the statutes, cases, and
22 textbooks cited in support of the position advanced.” (Cal.Rules of Ct., Rule 3.1113, subdivs. (a), (b).)
23 “The court may construe the absence of a memorandum as an admission that the motion ... is not
24 meritorious and cause for its denial ...” (*Id.*, Rule 3.1113(a).)

25 **II. PLAINTIFF’S MOTION FLOUTS THE RULES’ LEGAL REQUIREMENTS**

26 Plaintiff’s Motion wholly ignores all of these rules. The Motion does not include any proposed
27 First Amended Complaint, in violation of Rule 3.1324(a), and it contains essentially no information
28 about what factual and legal allegations her proposed First Amended Complaint would include.
Plaintiff’s Motion also does not attempt to explain which allegations that are found in Plaintiff’s
original complaint, and which new allegations she proposes to add to that original complaint, and
where – all of which are required by Rule 3.1324(a).

Equally important, Plaintiff's Motion does not contain the declaration required by Rule 3.1324(b) (or, indeed, any declaration at all). Her Motion contains no attestation under penalty of perjury explaining why a First Amended Complaint is necessary; explaining when Plaintiff discovered the facts that would be pleaded in a First Amended Complaint; and setting forth the reasons Plaintiff has not sought leave to amend her complaint in the more than three years that have elapsed since she filed her complaint.

Finally, Plaintiff's Motion lacks any memorandum of points and authorities, as required by Rule 3.1113. It also lacks any Notice of Motion.

Plaintiff’s status as a pro per litigant is not a basis to excuse her from following the California Rules of Court. It is a settled principle in California courts that litigants who choose to appear *in propria persona* are subject to, and must comply with, the same procedural rules as litigants who are represented by counsel. As the California Supreme Court has explained, “requiring or permitting exceptional treatment of parties who represent themselves would lead to a quagmire in the trial courts, and would be unfair to the other parties to litigation.” (*Rappleyea v. Campbell* (1994) 8 Cal.4th 975, 985.) Thus, a pro per litigant

is to be treated like any other party and is entitled to the same, but no greater consideration than other litigants and attorneys. Thus, as is the case with attorneys, pro. per. litigants must follow correct rules of procedure.

(*Nwosu v. Uba* (2004) 122 Cal.App.4th 1229, 1247 [cite omitted].)

Plaintiff's Motion is a bare shell that contains *none* of the elements that the California Rules of Court requires. It tells us nothing about what factual and legal allegations her proposed First Amended Complaint would contain, how it would differ from her original complaint, when she first learned of the facts allegedly necessitating a new complaint, and why she has not sought leave to amend her complaint before now. For all of these reasons, this Court should deny the Motion.

CONCLUSION

The City urges that Plaintiff's Motion for Permission to Submit First Amended Complaint be denied.

1 Dated: March 14, 2024

2 DAVID CHIU
3 City Attorney
4 WAYNE K. SNODGRASS
5 Deputy City Attorney

6 By: /s/Wayne K. Snodgrass
7 WAYNE K. SNODGRASS

8 Attorneys for Respondent
9 CITY AND COUNTY OF SAN FRANCISCO
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EXHIBIT A

[Contact Us](#)[Superior Court of California - County of San Francisco](#)

Case Number: CGC20588010
Title: RAMONA MAYON VS. CITY AND COUNTY OF SAN FRANCISCO
Cause of Action: CIVIL RIGHTS
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Register of Actions

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2024-02-05	POS BY MAIL RE: MOTION FOR PERMISSION TO SUBMIT FIRST AMENDED COMPLAINT BY SERVING CCSF FILED BY PLAINTIFF MAYON, RAMONA	View	
2024-01-30	REQUEST TO WAIVE COURT FEES AND COSTS PURSUANT TO G.C. 68633, CRC 3.51, 8.26, AND 8.818 (CONFIDENTIAL) FILED BY PLAINTIFF MAYON, RAMONA ORDER FOR WAIVER OF COURT FEES AND COSTS GRANTED PURSUANT TO G.C. 68634 (E), CRC 3.52		
2024-01-29	MTN FOR PERMISSION TO SUBMIT FIRST AMENDED COMPLAINT AND PROOF OF SERVICE FILED BY PLAINTIFF MAYON, RAMONA HEARING SET FOR APR-02-2024 AT 09:30 AM IN DEPT 302	View	IFP
2022-08-22	LAW AND MOTION, 302, PLAINTIFF RAMONA MAYON'S MOTION TO SUPPLEMENT ORIGINAL PLEADING UNDER CCP 464-45 IS OFF CALENDAR AS UNTIMELY PURSUANT TO CCP 1005. JUDGE: RICHARD B. ULMER JR., CLERK: S. LE, NOT REPORTED. =(302/RBU)		
2022-08-22	MINI MINUTES FOR AUG-22-2022 09:30 AM FOR DEPT 302		
2022-08-19	OPPOSITION TO MOTION TO SUPPLEMENT ORIGINAL PLEADING (TRANSACTION ID # 67950142) (TRANSACTION ID # 67950142) FILED BY DEFENDANT CITY AND COUNTY OF SAN FRANCISCO	View	
2022-08-08	MOTION TO SUPPLEMENT ORIGINAL PLEADING UNDER CCP 464-45 FILED BY PLAINTIFF MAYON, RAMONA HEARING SET FOR AUG-22-2022 AT 09:30 AM IN DEPT 302	View	IFP
2021-04-20	CASE MANAGEMENT CONFERENCE OF APR-28-2021 IS OFF CALENDAR. WRIT MATTER. NOTICE SENT BY COURT.	View	
2021-04-13	CASE MANAGEMENT STATEMENT (TRANSACTION ID # 66510267) FILED BY DEFENDANT CITY AND COUNTY OF SAN FRANCISCO	View	
2021-01-08	DECLARATION OF RAMONA MAYON FILED BY PLAINTIFF MAYON, RAMONA	View	
2021-01-05	PROOF OF SERVICE BY ELECTRONIC MAIL (TRANSACTION ID # 66227455) FILED BY DEFENDANT CITY AND COUNTY OF SAN FRANCISCO	View	
2021-01-05	REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF OPPOSITION TO PETITIONERS MOTION FOR A TEMPORARY RESTRAINING ORDER (TRANSACTION ID # 66227455)	View	
2021-01-05	DECLARATION OF R. ANDREW COX IN SUPPORT OF MOTION FOR A TEMPORARY RESTRAINING ORDER (TRANSACTION ID # 66227455) FILED BY DEFENDANT CITY AND COUNTY OF SAN FRANCISCO	View	
2021-01-05	OPPOSITION TO PETITIONER'S MOTION FOR A TEMPORARY RESTRAINING ORDER (TRANSACTION ID # 66227455) FILED BY DEFENDANT CITY AND COUNTY OF SAN FRANCISCO	View	
2020-12-30	ANSWER TO COMPLAINT (TRANSACTION ID # 66218961) FILED BY DEFENDANT CITY AND COUNTY OF SAN FRANCISCO	View	
2020-12-02	LAW & MOTION, DEPT. 302, DEC-02-2020 HEARING HELD RE: PETITIONER RAMONA MAYON'S EX PARTE APPLICATION FOR TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE. THE COURT RULES AS FOLLOWS: PETITIONER'S EX PARTE APPLICATION FOR A TEMPORARY RESTRAINING ORDER AND		

Date	Proceedings	Document	Fee
	ORDER TO SHOW CAUSE IS DENIED. JUDGE: ETHAN P. SCHULMAN; CLERK: SEAN KANE; COURT REPORTER: MARIA TORREANO, CSR NO. 8600, MARIA.TORREANO@GMAIL.COM (302/EPS)		
2020-12-02	MINI MINUTES FOR DEC-02-2020 01:30 PM FOR DEPT 302		
2020-12-01	PROOF OF SERVICE (TRANSACTION ID # 66151156) FILED BY DEFENDANT CITY AND COUNTY OF SAN FRANCISCO	View	
2020-12-01	DECLARATION OF JEFF KOSITSKY IN SUPPORT OF CITY AND COUNTY OF SAN FRANCISCOS OPPOSITION TO PETITIONERS APPLICATION FOR A TEMPORARY RESTRAINING ORDER (TRANSACTION ID # 66151156) FILED BY DEFENDANT CITY AND COUNTY OF SAN FRANCISCO	View	
2020-12-01	DECLARATION OF SERGEANT MAJA FOLLIN IN SUPPORT OF CITY AND COUNTY OF SAN FRANCISCOS OPPOSITION TO PETITIONERS APPLICATION FOR A TEMPORARY RESTRAINING ORDER (TRANSACTION ID # 66151156) FILED BY DEFENDANT CITY AND COUNTY OF SAN FRANCISCO	View	
2020-12-01	DECLARATION OF JEREMY M. GOLDMAN IN SUPPORT OF CITY AND COUNTY OF SAN FRANCISCOS OPPOSITION TO PETITIONERS APPLICATION FOR A TEMPORARY RESTRAINING ORDER (TRANSACTION ID # 66151156) FILED BY DEFENDANT CITY AND COUNTY OF SAN FRANCISCO	View	
2020-12-01	CITY AND COUNTY OF SAN FRANCISCOS OPPOSITION TO PETITIONERS MOTION FOR A TEMPORARY RESTRAINING ORDER (TRANSACTION ID # 66151156) FILED BY DEFENDANT CITY AND COUNTY OF SAN FRANCISCO	View	EXEMPT
2020-11-30	ADDED TO CALENDAR FOR PLAINTIFF RAMONA MAYON'S EX PARTE APPLICATION FOR TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE HEARING SET FOR DEC-02-2020 AT 01:30 PM IN DEPT 302		
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2020-11-25	ORDER GRANTING WAIVER OF COURT FEES AND COSTS PURSUANT TO G.C. 68634 (E), CRC 3.52 AS TO PLAINTIFF MAYON, RAMONA	View	
2020-11-25	REQUEST PENDING TO WAIVE COURT FEES AND COSTS PURSUANT TO G.C. 68633, CRC 3.51, 8.26, AND 8.818 (CONFIDENTIAL) FILED BY PLAINTIFF MAYON, RAMONA		
2020-11-25	NOTICE TO PLAINTIFF	View	
2020-11-25	CIVIL RIGHTS, COMPLAINT FILED BY PLAINTIFF MAYON, RAMONA AS TO DEFENDANT CITY AND COUNTY OF SAN FRANCISCO NO SUMMONS ISSUED, JUDICIAL COUNCIL CIVIL CASE COVER SHEET FILED CASE MANAGEMENT CONFERENCE SCHEDULED FOR APR-28-2021 PROOF OF SERVICE DUE ON JAN-25-2021 CASE MANAGEMENT STATEMENT DUE ON APR-05-2021	View	IFP

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PROOF OF SERVICE

I, HOLLY CHIN, declare as follows:

I am a citizen of the United States, over the age of eighteen years and not a party to the above-entitled action. I am employed at the City Attorney's Office of San Francisco, City Hall, 1 Dr. Carlton B. Goodlett Place, Room 234, San Francisco, CA 94102.

On March 14, 2024, I served the following document(s):

**RESPONDENT'S MEMORANDUM OF POINTS AND AUTHORITIES IN OPPOSITION TO
MOTION FOR PERMISSION TO SUBMIT FIRST AMENDED COMPLAINT**

on the following persons at the locations specified:

Ramona Mayon
1559 Sloat Blvd., Suite B – Box 175
San Francisco, CA 94132
(415) 595-6308
Email: ramonamayon@yahoo.com

In Propria Persona

in the manner indicated below:

☒ **BY UNITED STATES MAIL:** Following ordinary business practices, I sealed true and correct copies of the above documents in addressed envelope(s) and placed them at my workplace for collection and mailing with the United States Postal Service. I am readily familiar with the practices of the San Francisco City Attorney's Office for collecting and processing mail. In the ordinary course of business, the sealed envelope(s) that I placed for collection would be deposited, postage prepaid, with the United States Postal Service that same day.

I declare under penalty of perjury pursuant to the laws of the State of California that the foregoing is true and correct.

Executed March 14, 2024, at San Francisco, California.



HOLLY CHIN