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8 Attorneys for Defendants MAYOR LONDON BREED,
CITY AND COUNTY OF SAN FRANCISCO, AND
9 DIRECTOR SHIREEN MCSPADDEN

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA

11 COUNTY OF SAN FRANCISCO

12 UNLIMITED JURISDICTION

13 RAMONA MAYON,

14 Plaintiff,

15 vs.

16 MAYOR LONDON BREED AND
17 DIRECTOR SHIREEN MCSPADDEN OF
DEPT OF HOMELESSNESS AND
18 SUPPORTIVE HOUSING OF CITY AND
COUNTY OF SAN FRANCISCO, ONLY IN
19 THEIR OFFICIAL CAPACITY, AND DOES
1-50,

20 Defendants.
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Case No. CGC-24-611907

**DEFENDANTS MAYOR LONDON BREED,
DIRECTOR SHIREEN MCSPADDEN AND
CITY AND COUNTY OF SAN FRANCISCO'S
NOTICE OF MOTION AND MOTION TO
DISMISS PLAINTIFF'S COMPLAINT FOR
FAILURE TO AMEND; MEMORANDUM OF
POINTS AND AUTHORITIES IN SUPPORT
OF DISMISSAL OF PLAINTIFF'S
COMPLAINT AND ENTRY OF JUDGMENT**

Hearing Date: August 20, 2024
Time: 9:30 a.m.
Place: Dept. 302

Date Action Filed: January 26, 2024
Trial Date: Not Set.

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25
26 TO PLAINTIFF IN PRO PER:

27 PLEASE TAKE NOTICE that on August 20, 2024 at 9:30 a.m. in Department 302 of the
28 above-entitled court located at 400 McAllister Street, San Francisco, California, Defendants MAYOR

1 LONDON BREED, DIRECTOR SHIREEN MCSAPPDEN and DEPT OF HOMELESSNESS AND
2 SUPPORTIVE HOUSING OF CITY AND COUNTY OF SAN FRANCISCO AND THE CITY AND
3 COUNTY OF SAN FRANCISCO (“City Defendants”) will and hereby do move for dismissal of
4 Plaintiff’s complaint with prejudice, and entry of judgment in the Defendants’ favor, because the
5 deadline to file an amended complaint following the Court’s Order sustaining the demurrer has
6 expired over 45 days ago, subjecting the case to automatic dismissal, pursuant to CRC 3.1320(h) and
7 Cal. Code Civ. Pro. § 581(f)(2). This motion is supported by the memorandum, set forth below, and
8 the Declaration of Zuzana S. Ikels In Support Of Defendants’ Motion to Dismiss (“Ikels Declaration”).

9 Dated: July 24, 2024

10 DAVID CHIU
11 City Attorney
12 JENNIFER E. CHOI
13 Chief Trial Deputy
14 ZUZANA S. IKELS
15 Deputy City Attorney

16 By: /s/ Zuzana S. Ikels
17 ZUZANA S. IKELS

18 Attorneys for Defendants
19 MAYOR LONDON BREED, CITY AND COUNTY OF
20 SAN FRANCISCO, AND DIRECTOR SHIREEN
21 MCSPADDEN
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1 **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF DISMISSAL**

2 Code of Civil Procedure Section 581(f)(2) authorizes the Court to dismiss the action, where a
3 party does not file an amended pleading “after a demurrer to the complaint is sustained with leave to
4 amend, the plaintiff fails to amend it within the time allowed by the court and either party moves for
5 dismissal.” Defendants move to dismiss this action because Plaintiff Ramona Mayon has not filed an
6 amended complaint following the Court sustaining the demurrer, and the time to do so passed over six
7 weeks ago. Because the deadline to amend the complaint expired nearly two months ago, and Plaintiff
8 has effectively abandoned this lawsuit, this action should be dismissed with prejudice.

9 **BACKGROUND**

10 Ms. Mayon is representing herself in pro per in this action. She filed her Complaint in January
11 2024, and served the summons on the Mayor and the City as defendants, on January 30, 2024. She did
12 not serve defendant Ms. McSpadden. On February 29, 2024, the City Defendants filed a demurrer to
13 the complaint. (Ikels Decl., at ¶¶ 3-4.) On March 13, 2024, Plaintiff filed an opposition, and on March
14 20, 2024 Defendants filed their reply. The Court issued a tentative ruling, taking the hearing off
15 calendar, and required plaintiff to respond to Defendant’s meet and confer requests, in person or by
16 phone, rather than email. The City Defendants were ordered to file an amended pleading 30 days
17 thereafter. (Id. ¶ 5.)

18 Following the two hour meet and confer, on April 24, 2024, the City Defendants filed and
19 served their Amended Demurer. (Id. ¶ 6.) Plaintiff did not file an opposition to the demurrer, and the
20 City Defendants filed and served the notice of Plaintiff’s non-opposition. (Id.). On May 29, 2024, the
21 Court sustained Defendants’ amended demurrer, giving Plaintiff leave to amend her Complaint within
22 ten days. (Ikels Decl. ¶ 7, Exh. A.) Defendants filed and served Plaintiff with the Notice of Entry of
23 the May 29 Order. (Ikels Decl. ¶ 8, Exh. B.) Plaintiff never filed an amended complaint. In mid-July
24 2024, Defendants notified Plaintiff they would seek to dismiss the action, and then filed and served an
25 ex parte application to dismiss, pursuant to California Rules of Court, Rule 3.1320(g). Plaintiff
26 indicated she was not planning to amend the complaint, did not file an opposition, and did not appear
27 at the hearing. (Id. ¶¶ 9-11, Exh. C.) At the July 11, 2024 hearing on the application to dismiss, the
28 Court ordered Defendants to file a formal noticed motion. (Id. ¶ 12.)

1 **ARGUMENT**

2 Code of Civil Procedure Section 581(f)(2) authorizes the Court to dismiss the action, where a
3 party does not file an amended pleading “after a demurrer to the complaint is sustained with leave to
4 amend, the plaintiff fails to amend it within the time allowed by the court and either party moves for
5 dismissal.” Sub-section (g) of Rule 3.1320, California Rules of Court, states, “[f]ollowing a ruling on a
6 demurrer, unless otherwise ordered, leave to answer or amend within 10 days is deemed granted....”
7 Under sub-part (h) of Rule 3.1320, a “motion to dismiss the entire action and for entry of judgment
8 after expiration of the time to amend following the sustaining of a demurrer may be made by *ex parte*
9 application to the court under Code of Civil Procedure section 581(f)(2)” or, as here, formal motion.

10 Here, the Court’s order sustaining the defendants’ demurrer occurred in May 2024, the notice
11 of entry of that order which was filed and served on Plaintiff on May 29, 2024. Ms. Mayon had ten
12 days to file an amended complaint, and her deadline to file an amended pleading expired on June 15,
13 2024 at the latest. (Ikels Decl., at ¶¶ 8-10, Exh. B.) Plaintiff did not file an amended complaint or
14 inform the City Defendants she planned to amend. Rather, Plaintiff acknowledges she has abandoned
15 the lawsuit. (Ikels Decl., at ¶¶ 10-11, Exh. C.)

16 Accordingly, because the time to file an amended pleading passed over seven weeks ago, the
17 Court should dismiss the entire action against defendants with prejudice, and enter judgment in favor
18 of Defendants, pursuant to the Rules of Court, Rule 3.1320 and Code of Civil Procedure, Section
19 581(f)(2).

20 Dated: July 24, 2024

21 DAVID CHIU
City Attorney
22 JENNIFER E. CHOI
Chief Trial Deputy
23 ZUZANA S. IKELS
Deputy City Attorney

24 By: /s/ Zuzana S. Ikels
25 ZUZANA S. IKELS

26 Attorneys for Defendants
27 MAYOR LONDON BREED, CITY AND COUNTY OF
SAN FRANCISCO, AND DIRECTOR SHIREEN
28 MCSPADDEN

PROOF OF SERVICE

I, KASSY ADAMS, 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, Fox Plaza Building, 1390 Market Street, Sixth Floor, San Francisco, CA 94102.

On July 24, 2024, I served the following document(s):

DEFENDANTS MAYOR LONDON BREED, DIRECTOR SHIREEN MCSPADDEN AND CITY AND COUNTY OF SAN FRANCISCO'S NOTICE OF MOTION AND MOTION TO DISMISS PLAINTIFF'S COMPLAINT FOR FAILURE TO AMEND; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF DISMISSAL OF PLAINTIFF'S COMPLAINT AND ENTRY OF JUDGMENT

DECLARATION OF ZUZANA S. IKELS IN SUPPORT OF DEFENDANTS' MOTION TO DISMISS PLAINTIFF'S COMPLAINT AND ENTRY OF JUDGMENT

[PROPOSED] ORDER AND JUDGMENT DISMISSING COMPLAINT AND ACTION, IN ITS ENTIRETY, AS TO DEFENDANTS MAYOR LONDON BREED, DIRECTOR SHIREEN MCSPADDEN, DEPT OF HOMELESSNESS SUPPORTIVE HOUSING, AND CITY AND COUNTY OF SAN FRANCISCO

on the following persons at the locations specified:

Ramona Mayon
1559 Sloat Blvd, Suite B-Box 175,
San Francisco, California 94132
ramonamayon@yahoo.com
telephone: 415-595-6308

Plaintiff in Pro Per

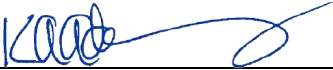
in the manner indicated below:

☒ **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.

☒ **BY ELECTRONIC MAIL:** Based on a court order or an agreement of the parties to accept electronic service, I caused the documents to be served electronically through File & ServeXpress in portable document format ("PDF") Adobe Acrobat.

☒ **BY ELECTRONIC MAIL:** I caused a copy of such document to be transmitted via electronic mail in portable document format ("PDF") Adobe Acrobat from the electronic address: kassy.adams@sfcityatty.org.

I declare under penalty of perjury pursuant to the laws of the State of California that the foregoing is true and correct. Executed July 24, 2024, at San Francisco, California.



KASSY ADAMS