

ORDER ON SUBMITTED MATTER

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA
CIVIL DIVISION**

Services, Immigrant Rights & Education
Network et al.,

Plaintiffs,

vs.

Paul Joseph et al.,

Defendants.

Case No. 25CV480254

ORDER AFTER HEARING - DEMURRER

The present demurrer came on for hearing before the court on August 6, 2026, at 9:00 a.m., in Department 10. The court ordered simultaneous supplemental briefing after the hearing. The matter having been submitted, the court now finds and orders as follows:

Plaintiffs Services, Immigrant Rights & Education Network (SIREN) and Council on American-Islamic Relations, California (CAIR-CA) sued defendants Paul Joseph, Chief of the San Jose Police Department (sued in his official capacity only); Matt Mahan, Mayor of San Jose (sued in his official capacity only); and the City of San Jose (collectively, Defendants). Plaintiffs allege that the City of San Jose Police Department's

1 use of the City’s network of Automated License Plate Readers (ALPRs) to perform
2 retrospective searches of stored information without a warrant violates the California
3 constitutional privacy rights of drivers within San Jose. Plaintiffs allege San Jose
4 “blanketed its roads with nearly 500 ALPRs.” They further allege that San Jose retains
5 the information from those ALPRs for one year, allowing the San Jose Police
6 Department and other law enforcement agencies to “query weeks or months of vehicle
7 data with a single request.” (Complaint, ¶¶ 3-4, 40-43.)

8 The original and still operative verified complaint was filed in November 2025. It
9 alleges three causes of action: (1) violation of article 1, section 13 of the California
10 Constitution; (2) violation of article 1, section 1 of the California Constitution; and (3) a
11 taxpayer action under Code of Civil Procedure section 526a. There are no exhibits
12 attached to the complaint.

13 At issue is Defendants’ demurrer to the complaint, opposed by Plaintiffs. The
14 court will sustain the demurrer without leave to amend.

15 **REQUEST FOR JUDICIAL NOTICE**

16 “Judicial notice may not be taken of any matter unless authorized or required by
17 law.” (Evid. Code, § 450.) A precondition to judicial notice in either its permissive or
18 mandatory form is that the matter to be noticed be relevant to the material issue before
19 the court. (*Silverado Modjeska Recreation and Park Dist. v. County of Orange* (2011)
20 197 Cal.App.4th 282, 307.) Evidence Code section 453, subdivision (b), requires a party
21 seeking notice to “[furnish] the court with sufficient information to enable it to take
22 judicial notice of the matter.”

23 Defendants have submitted a request for judicial notice of five purported facts in
24 support of their demurrer. The facts relate to: (1) modes of transit in San Jose; (2) the
25 prevalence of camera use to record vehicles; (3) the total mileage of streets in San Jose;

1 (4) the number of traffic signals in San Jose; and (5) the number of stop-signed
2 intersections. Defendants assert that fact 1 can be noticed “pursuant to Evidence Code
3 sections 451, 452, and/or 453,” and that facts 2-5 can be noticed “pursuant to Evidence
4 Code sections 452 and 453.” (Request at p. 2:19-21.) No more specific basis for taking
5 notice of any of the facts is described.

6 The request is denied. Evidence Code section 452, subdivision (h) does not apply
7 to any of the purported facts. (See *Gould v. Md. Sound Indus.* (1995) 31 Cal.App.4th
8 1137, 1145 [“Judicial notice under Evidence Code section 452, subdivision (h) is
9 intended to cover facts which are not reasonably subject to dispute and are easily
10 verified. These include, for example, facts which are widely accepted as established by
11 experts and specialists in the natural, physical, and social sciences which can be verified
12 by reference to treatises, encyclopedias, almanacs and the like or by persons learned in
13 the subject matter.”].) To the extent the request references Evidence Code sections 451,
14 subdivision (f) and 452, subdivision (g), Defendants have failed to show that any of the
15 purported facts meet the criteria for either section.

16 **LEGAL STANDARD FOR DEMURRER**

17 In ruling on a demurrer, the court accepts as true all properly pleaded material
18 factual allegations but does not accept as true contentions, deductions or conclusions of
19 fact or law. (*Valero v. Spread Your Wings, LLC* (2023) 88 Cal.App.5th 243, 253.) Code
20 of Civil Procedure section 430.60 states that “[a] demurrer shall distinctly specify the
21 grounds upon which any of the objections to the complaint, cross-complaint, or answer
22 are taken. Unless it does so, it may be disregarded.” The California Rules of Court also
23 require that the demurrer itself (distinct from a supporting memorandum) specify the
24 target of any objection and the grounds. (Cal. Rules of Court, rules 3.1103(c), 3.1112(a),
25 3.1320(a) [“Each ground of demurrer must be in a separate paragraph and must state

whether it applies to the entire complaint, cross-complaint, or answer, or to specified causes of action or defenses.”].)

The court cannot consider extrinsic evidence when ruling on a demurrer. This includes declarations. The court has considered the declaration from Senior Deputy City Attorney Julia Van Roo only to the extent it describes the meet and confer efforts required by statute. Finally, “points raised in the reply brief for the first time will not be considered, unless good reason is shown for failure to present them before.” (*Proctor v. Vishay Intertechnology, Inc.* (2013) 213 Cal.App.4th 1258, 1273.)

DISCUSSION

Defendants demur to all three causes of action on the ground that they fail to state sufficient facts. (Notice of Demurrer and Demurrer at p. 2:4-12.)

First and Second Causes of Action: California Constitutional Right to Privacy

The complaint’s first cause of action alleges that the use of data collected by the ALPR cameras by the City of San Jose Police Department and other law enforcement agencies without a warrant violates article I, section 13 of the California Constitution. (Complaint, ¶¶ 66-67.) The second cause of action alleges that the same activity violates article I, section 1 of the California Constitution. (*Id.*, ¶¶ 76-78.)

“Article I, section 1 of the California Constitution provides: ‘All people are by nature free and independent and have inalienable rights. Among these are enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety, happiness, and privacy.’” (*Hill v. Nat’l Collegiate Ath. Ass’n* (1994) 7 Cal.4th 1, 15 (*Hill*)). The elements of invasion of the state constitutional right of privacy are: (1) a specific, legally protected privacy interest; (2) a reasonable expectation of privacy on the plaintiff’s part; and (3) a serious invasion of that privacy interest. (*Id.*

1 at pp. 39-40.) Legally protected privacy interests are “generally of two classes: (1)
2 interests in precluding the dissemination or misuse of sensitive and confidential
3 information (‘informational privacy’); and (2) interests in making intimate personal
4 decisions or conducting personal activities without observation, intrusion, or
5 interference (‘autonomy privacy’).” (*Hill, supra*, 7 Cal.4th at p. 35.)

6 “A ‘reasonable’ expectation of privacy is an objective entitlement founded on
7 broadly based and widely accepted community norms.” (*Id.* at p. 37.) Circumstances,
8 customs, and practices can create or inhibit the reasonable expectation of privacy. (*Hill*,
9 *supra*, 7 Cal.4th at p. 35.) Whether the intrusion is voluntary is also a factor to be
10 considered. (*Ibid.*) “Actionable invasions of privacy must be sufficiently serious in their
11 nature, scope, and actual or potential impact to constitute an egregious breach of the
12 social norms underlying the privacy right. Thus, the extent and gravity of the invasion is
13 an indispensable consideration in assessing an alleged invasion of privacy.” (*Hill*,
14 *supra*, 7 Cal.4th at p. 37.)

15 Article 1, section 13 of the California Constitution states that “[t]he right of the
16 people to be secure in their persons, houses, papers, and effects against unreasonable
17 seizures and searches may not be violated; and a warrant may not issue except on
18 probable cause, supported by oath or affirmation, particularly describing the place to be
19 searched and the persons and things to be seized.” The test for determining if an illegal
20 search has occurred under article 1, section 13 is whether a person has a reasonable
21 expectation of privacy under the circumstances and, if so, whether that expectation was
22 violated by an unreasonable government intrusion. (*People v. Williams* (1982) 128
23 Cal.App.3d 981, 986.)

24 The appellate court in *Cartwright* considered a similar privacy question in a
25 different procedural context—whether using streetlight camera footage during a

1 criminal investigation was a search that required a warrant. (*People v. Cartwright*
2 (2024) 99 Cal.App.5th 98, 101 (*Cartwright*)). The streetlight cameras at issue in
3 *Cartwright* were operated by the City of San Diego. The cameras were “fixed position
4 and located throughout downtown San Diego and other parts of the city.” They
5 captured “ ‘environmental data, like temperature, humidity, pressure, ... traffic data, like
6 car speeds, car counts, pedestrian data, bicycle data, and even video data.’ ” They
7 created “high quality wide lens footage.” They captured “only the ‘public right of way.’ ”
8 Footage was “stored on each camera’s hard drive for five days; if it [was] not retrieved
9 within five days, the camera record[ed] over the footage.” (*Ibid.*)

10 The *Cartwright* court determined that reviewing the streetlight camera footage
11 did not require a warrant because “Cartwright did not have an objectively reasonable
12 expectation of privacy when he traversed a public right-of-way in downtown San Diego
13 in the middle of a business day.” (*Cartwright, supra*, 99 Cal.App.5th at p. 102.) The
14 *Cartwright* court distinguished the City of San Diego’s use of fixed streetlight cameras
15 focused on the public right of way (and searches of data collected by such cameras) from
16 the decisions in *Carpenter v. United States* (2018) 585 U.S. 310 (*Carpenter*) [cellular
17 phone location data] and *Leaders of a Beautiful Struggle v. Baltimore Police Dept.* (4th
18 Cir. 2021) 2 F.4th 330 (*Beautiful Struggle*) [aerial photography system integrated with
19 street cameras, gunshot detectors, and license plate readers], which are the two
20 decisions Plaintiffs rely on heavily in their opposition to the demurrer.

21 Neither *Carpenter* nor *Beautiful Struggle* can be read to indicate that the review
22 of footage from the streetlight cameras in this case amounts to a search subject to
23 a warrant requirement. The United States Supreme Court in *Carpenter*
24 specifically indicated that its holding was intended to be narrow and did not
25 extend to “conventional surveillance techniques and tools, such as security

1 cameras.” (*Carpenter, supra*, 585 U.S. at p. 316.) Recordings from cameras,
2 such as the ones that captured Cartwright’s movements in the downtown urban
3 environment in the middle of a weekday, do not rise to the same “unique nature
4 of cell phone location records.” (*Carpenter*, at p. 309.) Indeed, “[a] person
5 traveling ... on public thoroughfares has no reasonable expectation of privacy in
6 his movements from one place to another.’ ” (*Id.* at p. 306, quoting *United States*
7 *v. Knotts* (1983) 460 U.S. 276, 281, 282.) Indeed, as the court in *Beautiful*
8 *Struggle* acknowledged, “People understand that they may be filmed by security
9 cameras on city streets.” (*Beautiful Struggle, supra*, 2 F.4th at p. 345.) This is
10 effectively the same principle Cartwright now argues against.

11 (*Cartwright, supra*, 99 Cal.App.5th at p. 103.)

12 This court is bound by *Cartwright*. (*Sarti v. Salt Creek Ltd.* (2008) 167
13 Cal.App.4th 1187, 1193 [decisions of every Court of Appeal are binding on all superior
14 courts].) Applying that authority, Plaintiffs’ first and second causes of action do not
15 state sufficient facts because there is no reasonable expectation of privacy in license
16 plate data collected from cameras directed solely at public streets.

17 Plaintiffs attempt to distinguish *Cartwright* by arguing that Defendants’ system
18 here is “far more privacy invasive” than the “small number of conventional security
19 cameras” Plaintiffs argue were at issue in *Cartwright*. (Opposition, p. 12:23-28.) The
20 court acknowledges the scope of Defendants’ system is broader than that at issue in
21 *Cartwright*. But the court concludes that this case is no so factually distinguishable
22 from *Cartwright* as to allow the court to disregard that binding appellate authority. The
23 court also finds this case more factually similar to *Cartwright* than to *Carpenter* or
24 *Beautiful Struggle*. Recording automobile license plate information from fixed cameras
25 on public streets over time is less invasive than the continuous cell cite location data at

1 issue in *Carpenter*. The *Carpenter* court made clear its “decision is a narrow one” that
2 did not “call into question conventional surveillance techniques and tools, such as
3 security cameras.” (*Carpenter, supra*, 585 U.S. at p. 316.) Recording automobile
4 license plate information from fixed cameras on public streets over time is also less
5 invasive than the citywide integrated system in *Beautiful Struggle* that allowed law
6 enforcement to “captur[e] everyone’s movements outside during the daytime for 45
7 days.” (*Beautiful Struggle, supra*, 2 F.4th at pp. 334, 345 [“any single [Aerial
8 Investigation Research] image—captured once per second—includes around 32 square
9 miles of Baltimore and can be magnified to a point where people and cars are
10 individually visible, but only as blurred dots or blobs”].) And recording automobile
11 license plate information from fixed cameras on public streets over time is less invasive
12 than the cellular phone location data collected through the geofence warrant at issue in
13 *Chatrue v. United States* (2026) ____ U.S. ____ [146 S.Ct. 2193, 2199, 225 L.Ed.2d 793].
14 Unless and until another appellate court issues a published decision taking a different
15 position on the use of cameras capturing movement on public streets, this court must
16 follow *Cartwright*.

17 The court concludes that Plaintiffs failed to demonstrate a reasonable expectation
18 of privacy in the capturing of license plate data or in later queries of a database of that
19 license plate data. The court’s conclusion is consistent with several federal district court
20 decisions that have considered the issue. (*Schmidt v. City of Norfolk* (E.D.Va. 2026)
21 819 F. Supp. 3d 492, 496-498 [finding ALPR system at issue was not so intrusive that it
22 violated a reasonable expectation of privacy in the whole of one’s physical movements,
23 but noting that “as the number and capabilities of ALPR cameras expand, the
24 constitutional balancing could conceivably tip the other way”]; *Scholl v. Ill. State*
25 *Police* (N.D.Ill. 2025) 776 F. Supp. 3d 701, 716, 719-721 [“the court joins the nearly

1 uniform consensus of courts that have evaluated the constitutionality of ALPRs and held
2 that their uses ‘were not Fourth Amendment searches requiring warrants or probable
3 cause’ ”]; *United States v. Floyd* (M.D.Fla. 2025) 811 F. Supp. 3d 1345, 1350 [“there does
4 not appear to be any legitimate basis upon which to conclude that Defendant had
5 a reasonable expectation of privacy as it relates to his license plate, automatic license
6 plate readers, or in law enforcement’s queries of those license plate databases and
7 systems”]; accord, (*United States v. Toombs* (N.D.Ala. 2023) 671 F. Supp. 3d 1329,
8 1333; *United States v. Sturdivant* (N.D.Ohio 2025) 786 F. Supp. 3d 1098, 1111-1113.)

9 Defendants’ demurrer to the first and second causes of action on the ground that
10 they fail to state sufficient facts is sustained.

11 **Third Cause of Action: Code of Civil Procedure section 526a**

12 “Under Code of Civil Procedure section 526a, a taxpayer may challenge wasteful
13 or illegal government action that otherwise would go unchallenged because of standing
14 requirements.” (*Coshow v. City of Escondido* (2005) 132 Cal.App.4th 687, 714
15 (*Coshow*).) “To state a claim, the taxpayer must allege specific facts and reasons for the
16 belief the expenditure of public funds sought to be enjoined is illegal. ‘General
17 allegations, innuendo, and legal conclusions are not sufficient.’ ” (*Ibid.*; *Humane*
18 *Society of the United States v. State Bd. of Equalization* (2007) 152 Cal.App.4th 349,
19 355 & 361 (*Humane Society*).)

20 A Code of Civil Procedure “section 526a action ‘will not lie where the challenged
21 governmental conduct is legal.’ ” (*Humane Society, supra*, 152 Cal.App.4th at p. 361,
22 citing *Coshow, supra*, 132 Cal.App.4th at p. 714.) When the plaintiff fails to allege
23 sufficient facts to show that the challenged government conduct is illegal, the trial court
24 may properly sustain a demurrer to the plaintiff’s taxpayer claim without leave to
25 amend. (*Herzberg v. County of Plumas* (2005) 133 Cal.App.4th 1, 24; *Taxpayers for*

1 *Improving Public Safety v. Schwarzenegger* (2009) 172 Cal.App.4th 749, 769
2 [declaratory relief claim].)

3 The complaint's third cause of action depends entirely on the first two.
4 (Complaint at ¶¶ 83-84.) Because those causes of action are foreclosed for the reasons
5 already discussed, the third cause of action likewise fails to state sufficient facts. The
6 demurrer to the third cause of action is sustained.

7 **Leave to Amend**

8 A plaintiff bears the burden of demonstrating that a defect identified on
9 demurrer could be cured through amendment. (*Schifando v. City of Los Angeles*
10 (2003) 31 Cal.4th 1074, 1081; *Shaeffer v. Califia Farms, LLC* (2020) 44 Cal.App.5th
11 1125, 1145.) Plaintiffs do not meet this burden. Leave to amend is denied. (*Hudson v.*
12 *County of Los Angeles* (2014) 232 Cal.App.4th 392, 408 ["If as a matter of law there is
13 no possible liability, denial of leave to amend is proper."].)

14 **CONCLUSION**

15 Defendants' request for judicial notice is denied.

16 Defendants' demurrer to all three causes of action in the complaint is sustained
17 without leave to amend.

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19
20 Date: October 2, 2026



Hon. Jeffrey El-Hajj

Jeffrey B. El-Hajj
Judge of the Superior Court