



1 U.S.C. § 1441(b). (*Id.*)

2 The case now proceeds before this court on plaintiff’s first amended complaint (“FAC”),  
3 filed October 27, 2015. (Doc. No. 26.) In the FAC, plaintiff brings eight claims against  
4 defendant: (1) four breach of contract claims, (2) one unjust enrichment claim, (3) and three  
5 claims under the California False Claims Act (“CFCA”), California Government Code § 12650.  
6 (*Id.* at 1.) With respect to the CFCA claims, plaintiff brings these claims in its capacity as “a  
7 political subdivision of the State of California.” (*Id.* at 18, 21, 25, ¶¶ 68, 80, 94.)

8 The FAC alleges in relevant part as follows. On February 26, 2010, plaintiff Sierra View  
9 entered into a Software License Agreement (“License Agreement”) to purchase software modules  
10 from the defendant Influence. (*Id.* at 3, ¶ 5.) Plaintiff also entered into a Software Maintenance  
11 Agreement (“Maintenance Agreement”) with defendant. (*Id.*) Defendant submitted notices of  
12 completion for software modules that were not finished, and in May 2011, defendant began  
13 wrongfully billing plaintiff maintenance fees for incomplete modules. (*Id.* at 5, ¶ 11.) Three  
14 years after beginning paying those maintenance fees, plaintiff discovered that only four of the  
15 twelve modules purchased from defendant were functioning. (*Id.* at 7, ¶ 17.) When defendant  
16 refused plaintiff’s verbal and written requests for a reduction in the maintenance fees, plaintiff  
17 stopped payments. (*Id.* at 7, ¶ 18.) In January 2015, plaintiff’s counsel demanded a refund of the  
18 paid maintenance fees and notified defendant of plaintiff’s CFCA claims. (*Id.* at 8, ¶ 19.)

19 On May 20, 2016, defendant filed a motion for judgment on the pleadings, arguing that  
20 plaintiff lacked standing to pursue CFCA claims. (Doc. No. 58.) On June 7, 2016, plaintiff filed  
21 their opposition to defendant’s motion for judgment on the pleadings. (Doc. No. 59.) On June  
22 14, 2016, defendant filed their reply to plaintiff’s opposition. (Doc. No. 60.)

### 23 LEGAL STANDARDS

24 Rule 12(c) of the Federal Rules of Civil Procedure provides that: “After the pleadings are  
25 closed—but early enough not to delay trial—a party may move for judgment on the pleadings.”  
26 In reviewing a motion brought under Rule 12(c), the court “must accept all factual allegations in  
27 the complaint as true and construe them in the light most favorable to the nonmoving party.”  
28 *Fleming v. Pickard*, 581 F.3d 922, 925 (9th Cir. 2009).

1           The same legal standard applicable to a Rule 12(b)(6) motion applies to a Rule 12(c)  
2 motion. *Dworkin v. Hustler Magazine, Inc.*, 867 F.2d 1188, 1192 (9th Cir. 1989). Accordingly,  
3 “judgment on the pleadings is properly granted when, taking all the allegations in the non-moving  
4 party’s pleadings as true, the moving party is entitled to judgment as a matter of law.” *Marshall*  
5 *Naify Revocable Trust v. U.S.*, 672 F.3d 620, 623 (9th Cir.2012) (quoting *Fajardo v. Cnty. of*  
6 *L.A.*, 179 F.3d 698, 699 (9th Cir.1999)). *See also Fleming v. Pickard*, 581 F.3d 922, 925 (9th Cir.  
7 2009) (stating that “judgment on the pleadings is properly granted when there is no issue of  
8 material fact in dispute, and the moving party is entitled to judgment as a matter of law”). The  
9 allegations of the nonmoving party must be accepted as true, while any allegations made by the  
10 moving party that have been denied or contradicted are assumed to be false. *MacDonald v.*  
11 *Grace Church Seattle*, 457 F.3d 1079, 1081 (9th Cir. 2006). The facts are viewed in the light  
12 most favorable to the non-moving party and all reasonable inferences are drawn in favor of that  
13 party. *Living Designs, Inc. v. E.I. DuPont de Nemours & Co.*, 431 F.3d 353, 360 (9th Cir. 2005).

14           Courts have discretion both to grant a motion for judgment on the pleadings with leave to  
15 amend or to simply grant dismissal of causes of action rather than grant judgment as to them.  
16 *Lonberg v. City of Riverside*, 300 F. Supp. 2d 942, 945 (C.D. Cal. 2004) (citations omitted); *see*  
17 *also Pacific West Group, Inc. v. Real Time Solutions, Inc.*, 321 Fed. Appx. 566, 569 (9th Cir.  
18 2008)<sup>1</sup>; *Woodson v. State of California*, No. 2:15-cv-01206-MCE-CKD, 2016 WL 524870, at \*2  
19 (E.D. Cal. Feb. 10, 2016). Generally, dismissal without leave to amend is proper only if it is clear  
20 that “the complaint could not be saved by any amendment.” *Intri-Plex Techs. v. Crest Group,*  
21 *Inc.*, 499 F.3d 1048, 1056 (9th Cir. 2007) (citing *In re Daou Sys., Inc.*, 411 F.3d 1006, 1013 (9th  
22 Cir. 2005)); *Ascon Props., Inc. v. Mobil Oil Co.*, 866 F.2d 1149, 1160 (9th Cir. 1989) (noting that  
23 “[l]eave need not be granted where the amendment of the complaint . . . constitutes an exercise in  
24 futility”).

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27       <sup>1</sup> Citation to this unpublished Ninth Circuit opinion is appropriate pursuant to Ninth Circuit Rule  
28 36-3(b).

1 ANALYSIS

2 In their motion for judgment on the pleadings, defendant argues that plaintiff, Sierra View  
3 Local Health District, lacks standing to pursue their CFCA claims. (Doc. No. 58.)

4 Under the CFCA, any person who submits a false claim to the state or a political  
5 subdivision may be sued for damages and civil penalties. Cal. Gov. Code, § 12651(a); *State Ex*  
6 *Rel. Harris v. PricewaterhouseCoopers, LLP*, 39 Cal. 4th 1220, 1227 (2006). A political  
7 subdivision includes “any city, city and county, county, tax or assessment district, or other legally  
8 authorized local government entity with jurisdictional boundaries.” Cal. Gov. Code  
9 § 12650(b)(3).

10 Under California Government Code § 12652, CFCA claims can only be brought by the  
11 Attorney General, the prosecuting authority of a political subdivision, or a private party in a qui  
12 tam action. Cal. Govt. Code § 12652; *Los Angeles Memorial Coliseum Commission v.*  
13 *Insomniac, Inc.*, 233 Cal. App. 4th 803, 819 (2015). When a person has submitted a false claim  
14 upon political subdivision funds, or upon state and political subdivision funds, the “prosecuting  
15 authority of the affected political subdivision may bring an action.” Cal. Gov. Code  
16 § 12652(b)(1). *See also State ex rel. Harris v. PricewaterhouseCoopers, LLP*, 39 Cal. 4th 1220,  
17 1227 (2006); *State ex rel. Dockstader v. Hamby*, 162 Cal. App. 4th 480, 490 (2008) (stating that  
18 “CFCA authorizes the prosecuting authority of a local agency to pursue recovery only where its  
19 own political subdivision funds are at issue, or where both its own and state funds are at issue”).  
20 Under the statute, the “prosecuting authority” may be “the county counsel, city attorney, or other  
21 local government official charged with investigating, filing, and conducting civil legal  
22 proceedings on behalf of, or in the name of, a particular political subdivision.” Cal. Gov. Code  
23 § 12650(b)(4); *see, e.g., Debro v. Los Angeles Raiders*, 92 Cal. App. 4th 940, 949 (2001) (stating  
24 that “it is clear from the plain language of the statute that the ‘official of the . . . political  
25 subdivision charged with responsibility to act’ pertains to the responsible persons with the City of  
26 Oakland and Alameda County”).

27 California law provides for the creation and operation of hospital districts in the state.  
28 California Health & Safety Code § 32121. Hospital districts created under § 32121 constitute

1 “special districts,” agencies of government performing governmental or proprietary functions  
2 within limited boundaries. *See American River Fire Protection Dist. v. Board of Supervisors*, 211  
3 Cal. App. 3d 1076, 1077 (1989); *see also Eden Tp. Healthcare Dist. v. Sutter Health*, 202 Cal.  
4 App. 4th 208, 230 (2011) (citing *Talley v. Northern San Diego County Hospital Dist.*, 41 Cal. 2d  
5 33, 40 (1953)). They have the power “[t]o sue and be sued in all courts and places and in all  
6 actions and proceedings whatever,” and may “employ legal counsel . . . to perform the functions  
7 in respect to the legal affairs of the district.” Cal. Health & Safety Code § 32121(b), (f).

8 Defendant, in their motion for judgment on the pleadings, argues that plaintiff Sierra View  
9 lacks standing to bring its three CFCA claims because plaintiff is not a qui tam plaintiff or a  
10 “prosecuting authority” that may bring suit for political subdivision funds. (Doc. No. 58-1 at 4.)  
11 According to defendant, Sierra View “is not represented, nor is it alleged to be represented, by the  
12 Tulare City Counsel, a city attorney, or a government official authorized to bring suits under the  
13 [CFCA],” defendant contends. (*Id.* at 5.) Defendant argues that plaintiff therefore lacks standing  
14 to bring the CFCA claims and should not be granted leave to amend because amendment would  
15 be futile. (*Id.*)

16 Plaintiff, opposing defendant’s motion, argues that Sierra View does have standing to  
17 bring CFCA claims. Plaintiff agrees that Sierra View is not a qui tam plaintiff, but contends that  
18 Sierra View may properly bring CFCA claims in its capacity as a “prosecuting authority” of a  
19 political subdivision, the Sierra View Local Health Care District. (Doc. No. 59 at 3.) Plaintiff  
20 makes four points in support of this contention. First, plaintiff asserts that Sierra View, as a local  
21 district hospital, is a political subdivision of the state of California under California Government  
22 Code § 12650(b)(6). (*Id.*) Second, plaintiff observes that the funds at issue are political  
23 subdivision funds under California Government Code § 12650(b)(7). (Doc. No. 59 at 3.) Third,  
24 plaintiff argues that Sierra View is a proper “prosecuting authority” because it has authority to  
25 bring suits on its own behalf under California Health & Safety Code § 32121(b). (*Id.* at 4–5.)  
26 Though acknowledging that it is being represented by private counsel, plaintiff notes that  
27 California’s Health & Safety Code § 32121(f) specifically authorizes hiring of private counsel for  
28 legal advice and assistance. (Doc. No. 59 at 4–5.) Finally, plaintiff argues that its FAC provides

1 defendant sufficient notice that plaintiff brings its CFCA claims in its capacity as prosecuting  
2 authority for the Sierra View district. (*Id.* at 5–6.) In this latter regard, plaintiff points to the  
3 language of the FAC, which alleges that “Plaintiff is a political subdivision of the State of  
4 California,” (Doc. No. 26 at 18, 21, 25, ¶¶ 68, 80, 94). Plaintiff argues that “[t]his allegation is  
5 sufficient to provide notice to Influence that Sierra View has all the powers and authority vested  
6 to Local District Hospitals by statute.” (Doc. No. 59 at 5.) Finally, plaintiff requests that in the  
7 event the court grants defendant’s pending motion, it be granted leave to amend the FAC with  
8 respect to its CFCA claims. (*Id.* at 6.)

9 In their reply, defendant argues that Health & Safety Code § 12650 does not confer  
10 “prosecuting authority” powers upon Sierra View. (Doc. No. 60 at 2–4.) Defendant contends  
11 that, while § 12650 authorizes Sierra View to stand as a party to litigation and to retain private  
12 counsel, the statute does not grant Sierra View the power to act as its own “prosecuting authority”  
13 within the meaning of the CFCA. (*Id.*)

14 Defendant’s arguments are persuasive. The parties do not dispute that the funds at issue  
15 are political subdivision funds, or that Sierra View is a political subdivision of the State of  
16 California. The only disputed issue is thus whether Sierra View is a “prosecuting authority” that  
17 may properly bring CFCA claims to recover the relevant funds. The court concludes plaintiff  
18 Sierra View has not pled sufficient facts that, if proven, would demonstrate it acts as a  
19 “prosecuting authority” under the CFCA. In the FAC, plaintiff alleges that Sierra View bring its  
20 claims as “a political subdivision of the State of California,” (Doc. No. 26 at 18, 21, 25, ¶¶ 68, 80,  
21 94), but does not allege or specify how Sierra View was charged with investigating, filing, or  
22 conducting CFCA civil legal proceedings.<sup>2</sup> In opposition to defendant’s motion to dismiss,  
23 plaintiff notes that California law allows hospital districts such as Sierra View to “sue and be sued

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25 <sup>2</sup> In their opposition, plaintiff also indicates that a witness, John Chivers, Chief Financial officer  
26 for Sierra View, could “testify under oath that he is a local government official hired by the  
27 elected board of directors for Sierra View, and that his job duties include, in part, investigating  
28 false claims made to and paid by the hospital, and when necessary hiring legal counsel to file and  
conduct civil legal proceedings on behalf of and in the name of Sierra View.” (Doc. No. 59 at 6.)  
However, plaintiff does not make any such allegations in their FAC, or otherwise allege that  
Sierra View officers are the “prosecuting authority” for the relevant political subdivision.

1 in all courts,” and to obtain legal services through private counsel. Cal. Health and Safety Code §  
2 32121. But, as defendant indicates, the ability to stand as a party to litigation and to retain private  
3 counsel does not itself demonstrate Sierra View is a “prosecuting authority” within the meaning  
4 of Cal. Gov. Code § 12650. *See Los Angeles Memorial Coliseum Commission*, 233 Cal. App. 4th  
5 at 900 (finding that plaintiffs lacked standing to bring a CFCA claim because “allegations of the  
6 operative first amended complaint [did not] suggest or imply that either the Coliseum or the  
7 Association [plaintiffs] were otherwise ‘charged with the investigating, filing, and conducting  
8 civil legal proceedings in behalf of, or in the name of, a particular political subdivision’”); *see*  
9 *also State ex. Rel. Hindin v. Hewlett-Packard Co.*, 153 Cal. App. 4th 307, 314, 320 (2007)  
10 (finding that an individual employee of a political subdivision did not have standing to bring a  
11 CFCA claim as a “prosecuting authority” because the CFCA defines prosecuting authority as “a  
12 public official such as the Attorney General, not a private individual such as [the plaintiff]”).  
13 Accordingly, even taking all the allegations in plaintiff’s FAC as true, plaintiff would lack  
14 standing to pursue its claims under the CFCA. Accordingly, defendant’s motion will be granted.

15 Whether or not plaintiff should be granted leave to amend depends on whether plaintiff  
16 could amend their complaint to allege facts supporting standing under Cal. Gov. Code § 12650.  
17 *See Mueller v. Auker*, 700 F.3d 1180, 1191 (9th Cir. 2012) (indicating that leave to amend should  
18 be granted unless it is clear the complaint could not be saved by amendment). The CFCA does  
19 not expressly limit the types of officials who may be “charged with investigating, filing, and  
20 conducting civil legal proceedings on behalf of, or in the name of” political subdivisions. Cal.  
21 Gov. Code § 12650. No California court has directly addressed the question of whether political  
22 subdivisions may bring claims on their own behalf, or retain private counsel to do so. *Cf. Los*  
23 *Angeles Memorial Coliseum Commission v. Insomniac, Inc.*, 233 Cal. App. 4th 803, 822 (2015)  
24 (stating that, because it was undisputed that an action was not brought by a prosecuting authority,  
25 “[w]e do not have to deal with whether attorneys working in a government agency or subdivision  
26 are or can be” prosecuting authorities). In the absence of authority suggesting that Sierra View or  
27 Sierra View employees are foreclosed from acting as “prosecuting authorities” under the CFCA,  
28 it is therefore not “clear that amendment would be futile” here. *Thinket Ink Information*

1 *Resources, In. v. Sun Microsystems, Inc.*, 368 F.3d 1053, 1061 (9th Cir. 2004) (finding that leave  
2 to amend is properly denied if amendment would be futile). Here, it is conceivable that plaintiff  
3 could in good faith allege facts supporting the notion that the CFCA claims are being pursued by  
4 a local government official charged with investigating, filing, and conducting civil legal  
5 proceedings on behalf of, or in the name of, a particular political subdivision as authorized by  
6 California Government Code § 12650(b)(4). Accordingly, the court will exercise its discretion to  
7 dismiss plaintiff's CFCA claims with leave to amend.

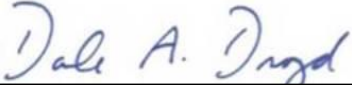
8 CONCLUSION

9 For the reasons stated above:

- 10 1. Defendant's motion for judgment on the pleadings, (Doc. No. 58), is granted;  
11 2. Plaintiff's CFCA causes of action are dismissed with leave to amend; and  
12 3. If plaintiff wishes to pursue the CFCA claims, it shall file a second amended  
13 complaint within twenty one (21) days of the date of this order.

14 IT IS SO ORDERED.

15 Dated: August 5, 2016

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18 UNITED STATES DISTRICT JUDGE  
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