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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

RU HOGAN,

Plaintiff,

v.

CITY OF ROCKLIN, and DOES 1
THROUGH 100,

Defendants.

No. 2:24-cv-03566-JAM-SCR

**ORDER GRANTING DEFENDANT'S
MOTION TO STRIKE**

Before the Court is City of Rocklin's ("Defendant") motion to strike three causes of action in Ru Hogan's ("Plaintiff") First Amended Complaint ("FAC"). See Mot., ECF No. 12.

Plaintiff has failed to file a timely opposition to Defendant's motion. Pursuant to Local Rule 230(c), the Court construes Plaintiff's failure to oppose as a non-opposition to the motion. For the following reasons, the Court GRANTS Defendant's motion.

California Code of Civil Procedure provides, "A cause of action against a person arising from any act of that person in furtherance of the person's right of petition or free speech under the United States Constitution or the California Constitution in connection with a public issue shall be subject

1 to a special motion to strike, unless the court determines that
2 the plaintiff has established that there is a probability that
3 the plaintiff will prevail on the claim." Cal. Civ. Proc. Code
4 § 425.16(b)(1). The protected conduct includes: "(1) any written
5 or oral statement or writing made before a legislative,
6 executive, or judicial proceeding, or any other official
7 proceeding authorized by law, (2) any written or oral statement
8 or writing made in connection with an issue under consideration
9 or review by a legislative, executive, or judicial body, or any
10 other official proceeding authorized by law, (3) any written or
11 oral statement or writing made in a place open to the public or a
12 public forum in connection with an issue of public interest, or
13 (4) any other conduct in furtherance of the exercise of the
14 constitutional right of petition or the constitutional right of
15 free speech in connection with a public issue or an issue of
16 public interest." Id. 425.16(e). "A defendant need only make a
17 prima facie showing that plaintiff's claims arise from the
18 defendant's constitutionally protected free speech or petition
19 rights." Optional Cap., Inc. v. Akin Gump Strauss, Hauer & Feld
20 LLP, 18 Cal. App. 5th 95, 112 (2017). The California Supreme
21 Court held, "If the defendant makes the required showing, the
22 burden shifts to the plaintiff to demonstrate the merit of the
23 claim by establishing a probability of success. We have
24 described this second step as a 'summary-judgment-like
25 procedure.'" Baral v. Schnitt, 1 Cal. 5th 376, 384 (2016).

26 Here, Plaintiff's allegations center around Defendant's
27 involvement in the enforcement of zoning code as it relates to
28 her hens. To enforce the code, Defendant allegedly issued

1 citations, processed Plaintiff's requested accommodation, ordered
2 Plaintiff to remove her hens, Defendant employee David Mohlenbrok
3 communicated with third parties, and Officer Heather Rodgers
4 testified at a hearing. See First Amended Complaint ("FAC")
5 ¶¶ 4, 8-9, 12, 14, ECF No. 9. Defendant has demonstrated that
6 this conduct is protected free speech under California Code of
7 Civil Procedure. See Mot. at 12-13. Accordingly, Defendant has
8 made "a prima facie showing" that Plaintiff's claims arise from
9 Defendant's constitutionally protected free speech rights. See
10 Optional Cap., Inc., 18 Cal. App. 5th at 112.

11 Because Defendant has made "the required showing, the burden
12 shifts to the plaintiff to demonstrate the merit of the claim by
13 establishing a probability of success." Baral, 1 Cal. 5th at
14 384. As an initial matter, because Plaintiff has not opposed the
15 motion, she cannot meet her burden of demonstrating a probability
16 of success. Although the Court need go no further before
17 granting the motion, its review of the specific claims reveal
18 that Plaintiff does not have a probability of success. As
19 Defendant explains, Defendant is immune from tort liability and
20 thus the First and Fourth Causes of Action fail. See Mot. at 14-
21 16. Regarding Plaintiff's claim for violation of California's
22 Fair Employment and Housing Act, Defendant demonstrates that
23 Plaintiff cannot prevail because she was granted the
24 accommodation she requested. See Mot. at 16-17. Thus, even if
25 Plaintiff opposed the motion, the Court finds that she would be
26 unable to meet her burden.

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1 Accordingly, the Court GRANTS Defendant's motion and STRIKES
2 the First, Second, and Fourth Causes of Action in the FAC.

3 IT IS SO ORDERED.

4 Dated: March 4, 2025

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7 JOHN A. MENDEZ
8 SENIOR UNITED STATES DISTRICT JUDGE
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