

United States District Court  
For the Northern District of California

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ANDREW W.,

Plaintiff,

v.

MENLO PARK CITY SCHOOL DISTRICT,

Defendant

No. C-10-0292 MMC

**ORDER GRANTING DEFENDANT’S  
MOTION TO DISMISS SECOND CAUSE  
OF ACTION; VACATING APRIL 30, 2010  
HEARING**

Before the Court is defendant Menlo Park City School District’s motion, filed March 16, 2010, to dismiss plaintiff’s Second Cause of Action. Plaintiff Andrew W. has not filed opposition.<sup>1</sup> Having read and considered the papers filed in support of the motion, the Court deems the matter suitable for decision thereon, VACATES the hearing scheduled for April 30, 2010, and rules as follows.

For the reasons stated by defendant, the Court finds the Second Cause of Action, by which plaintiff alleges a claim for money damages based on a breach of contract, is subject to dismissal. Specifically, plaintiff has failed to allege that, pursuant to § 945.4 of the California Government Code, he has presented to defendant a “written claim therefor.” See Cal. Gov’t Code § 945.4; see also City of Stockton v. Superior Court, 42 Cal. 4th 730,

---

<sup>1</sup>Under the Local Rules of this District, plaintiff’s opposition was due no later than April 9, 2010. See Civil L.R. 7-3(a) (providing “opposition to a motion must be served and filed not less than 21 days before the hearing date”).

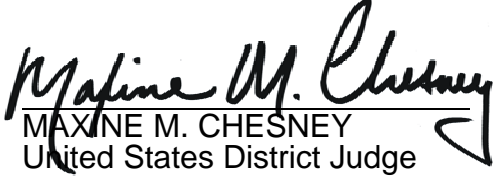
1 738-39 (2007) (holding § 945.4 applies to “contract claims”).

2 Accordingly, defendant’s motion is hereby GRANTED, and the Second Cause of  
3 Action is hereby DISMISSED without prejudice.

4 **IT IS SO ORDERED.**

5

6 Dated: April 15, 2010

  
MAXINE M. CHESNEY  
United States District Judge

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28