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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

WALTER HUNTER,

Plaintiff and Appellant,

v.

LOS ANGELES COUNTY,

Defendant and Respondent.

B289555

(Los Angeles County  
Super. Ct. No. BS159437)

APPEAL from a judgment of dismissal of the Superior Court of Los Angeles, Amy D. Hogue and Joanne B. O'Donnell, Judges. Affirmed.

Walter Hunter, in pro. per., for Plaintiff and Appellant.

David Weiss Law, David J. Weiss and Jaime E. Verducci  
for Defendant and Respondent.

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This appeal is from a judgment of dismissal following an order sustaining defendant County of Los Angeles (County)'s demurrer. On appeal, plaintiff Walter Hunter's claims comprise two categories of error: (1) County's alleged failure to provide documents to him related to his adoption, and (2) County's alleged tortious conduct related to the selection and supervision of his foster and adoptive homes in the 1960s and 1970s. We conclude the superior court could not provide relief for the first category of claims because Hunter failed to follow the mandatory procedures under Welfare and Institutions Code section 827 for obtaining confidential documents from a juvenile court proceeding. We also conclude Hunter could not pursue his second category of claims because he did not include them in his government claim filed with County. We therefore affirm the judgment of dismissal.

## **BACKGROUND**

According to Hunter, he was a dependent of the juvenile court beginning in 1961 prior to his adoption in September 1967.

Hunter claims that in 1994 and in 2003, he received information from County identifying his birth mother's biographical information, as well as documentation showing that she was Jewish and her family originated in Austria. Hunter asserts that he is aware of his birth mother's "name, ethnicity, last known location, hobbies, and other information."

Hunter represents that in 2013, he requested from County all information provided by his birth mother. Hunter's specific request is not included in our record. In September 2014, Los Angeles County Department of Children and Family Services (DCFS) wrote Hunter a letter stating: "Per your request we are sending copies of the non identifying background and descriptive

information re you[r] birth family that you indicated you had lost several years ago.” The letter represented that Hunter’s birth mother had contacts with DCFS but those contacts stopped in 1984 and that Hunter’s birth mother may be deceased.

**1. *Hunter’s claim filed with County pursuant to the Government Claims Act*<sup>1</sup>**

On May 1, 2015, Hunter filed a claim for damages with County. Hunter described the “incident” as follows: “On or about 02/01/2015 Carlos Castillo [a DCFS employee] failed to correct false info[r]mation] about my ethnicity & failed to respond to allegation of the department allowing child abuse.” Hunter described how his injury occurred as follows: “I reported my abuse as a child by my adoptive parents for 15 years. I ask why measures were not taken since my [adoptive] mother was 60 years old at the time of my adoption and thus should not have been allowed to adopt. I also asked for copies of . . . my birth mother[']s information. I had previously twice gotten identifying info[r]mation] because my mother signed a waiver. The worker refuse[d] to provide me this info[r]mation and purposely mis[s]tated my race as Russi[a]n when I am Jew[ish].”

**2. *Superior court complaint***

On November 30, 2015, Hunter filed a complaint in superior court. For purposes of the current appeal, the only cause of action relevant in Hunter’s original complaint was for “breach of a mandatory duty.” Hunter alleged that County had a mandatory duty to release information requested about his

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<sup>1</sup> See Government Code sections 810, 910, and 945.4.

biological mother's identity and "other biographical information contained in the plaintiff's foster and adoption file."

The trial court (Judge Amy D. Hogue) rejected Hunter's argument that County had a mandatory duty to release the information. It dismissed that cause of action and transferred the remaining portions of the complaint to a different department for determination. This court summarily denied Hunter's petition for writ of mandate, seeking to overturn Judge Hogue's dismissal of his single cause of action for breach of a mandatory duty.

### **3. *First amended complaint***

After Judge Hogue dismissed Hunter's cause of action based on a mandatory duty, the superior court (Judge Joanne B. O'Donnell) considered Hunter's first amended complaint, in which he alleged causes of action for fraud, intentional infliction of emotional distress, and negligence.

In his first amended complaint, Hunter alleged that in 1993, he received information from DCFS concerning his birth mother including her name, last known address, and information related to her religious background. Hunter identified his birth mother, indicating he was aware of her name. Hunter alleged that he previously received information concerning his biological father, his uncle, and his half sister. Hunter received the same information about his mother from DCFS in 2003, pursuant to an additional request.

Hunter lost the information about his birth mother and requested it again in 2013. According to the allegations in the first amended complaint, DCFS did not provide this information. In Hunter's words: "DCFS refused to . . . identify the Plaintiff's birth mother after the birth mother provided her consent in

writing and reaffirmed that consent over years of contact with the adoption agency. DCFS is estopped from [denying Hunter the information] because DCFS both gave the birth[ ]mother the waiver form and accepted the form for the normal purpose of releasing confidential information.” Hunter further alleged that he tried numerous times to obtain the requested information. When DCFS failed to provide the information, Hunter filed his previously described government claim, which County denied.

Hunter also averred that DCFS failed to honor his birth mother’s request that he be placed in a home with Jewish parents. When he was placed with his adoptive parents, his adoptive father was 45 years old and his adoptive mother was approximately 60 years old. His adoptive mother died 15 years after he was adopted. Hunter alleged that his adoptive father abandoned him. He also alleged that his adoptive parents physically abused him: “The physical abuse from Plaintiff’s mother included discipline and corporal punishment with extension cords, coat hangers, broom sticks and women’s shoe heels. The Plaintiff lived in constant fear and ran away from home at one time to escape.” “The adoptive father was alcoholic and abusive including chasing the Plaintiff with kitchen butcher knives as a game.” Hunter averred that foster children sexually abused him when he was between the ages of 4 and 10 years old. Hunter alleged that County “was negligent and failed to take reasonable steps to prevent the unlawful sexual conduct . . . and . . . failed in its duty to protect the minor child. Plaintiff was never questioned by DCFS as a child and the abuse was known in the community thus defendants were clearly negligent.” Hunter elaborated “[t]he plaintiff developed injuries requiring years of treatment continuing from the physical abuse

of his adoptive parents.” “The Abuse to the Plaintiff began prior to the adoption date of September 7, 1967[,] was known to the community neighbors and was readily ascertainable by DCFS who failed [to] perform its fiduciary duties and responsibilities.” As a result, Hunter claims he suffered severe emotional distress.

Hunter’s cause of action for fraud identifies no specific intentional or negligent misrepresentation. His cause of action for intentional infliction of emotional distress identifies no specific alleged outrageous and intentional conduct. Hunter’s cause of action for negligence alleged that certain DCFS employees were negligent in preventing abuse and in handling his request for information.

**4. *The trial court dismissed the lawsuit and Hunter appeals from the judgment***

The trial court sustained County’s demurrer to the first amended complaint without leave to amend. Among other reasons, the trial court concluded that Hunter’s government claim did not encompass allegations other than his request for information from DCFS.<sup>2</sup>

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<sup>2</sup> As set forth in the Discussion section *post*, this appeal turns on two dispositive issues. We do not address other grounds upon which the trial court’s rulings relied but note here what those other grounds were. For example, the trial court applied the doctrine of collateral estoppel to conclude that the denial of his petition for writ of mandate barred Hunter’s mandate cause of action. The trial court also found that most of Hunter’s claims were barred by the statute of limitations, and that DCFS workers were immune from liability. Finally, the trial court found Hunter had failed properly to plead damages from the alleged fraud, any extreme or outrageous conduct to support a claim for intentional

Hunter timely appealed from the judgment. The order denying the cause of action based on an alleged mandatory duty was not separately appealable because it did not dispose of all causes of action between the parties. (*Lawrence v. Superior Court* (2018) 21 Cal.App.5th 513, 520; *Nerhan v. Stinson Beach County Water Dist.* (1994) 27 Cal.App.4th 536, 540.) Therefore, Hunter properly has combined arguments related to the original complaint and the first amended complaint in the current appeal.

### STANDARD OF REVIEW

“On appeal from a judgment after a demurrer is sustained without leave to amend, we review the trial court’s ruling de novo, exercising our independent judgment on whether the complaint states a cause of action. [Citation.] ‘“We treat the demurrer as admitting all material facts properly pleaded, but not contentions, deductions or conclusions of fact or law. [Citation.] We also consider matters which may be judicially noticed.” [Citation.] Further, we give the complaint a reasonable interpretation, reading it as a whole and its parts in their context. [Citation.] When a demurrer is sustained, we determine whether the complaint states facts sufficient to constitute a cause of action.’” (*Anselmo v. Grossmont–Cuyamaca Community College Dist.* (2018) 25 Cal.App.5th 948, 951.)

Because the demurrer was sustained without leave to amend, we must determine whether there is a reasonable possibility Hunter can amend the operative complaint to assert a viable cause of action. (*Randall v. Ditech Financial, LLC* (2018) 23 Cal.App.5th 804, 809.) The scope of any amendment is limited

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infliction of emotional distress, and sufficient facts to plead a negligence claim.

by those claims raised in Hunter’s government claim filed with County. (*Fall River Joint Unified School Dist. v. Superior Court* (1988) 206 Cal.App.3d 431, 435–436; *Nelson v. State of California* (1982) 139 Cal.App.3d 72, 79.) Hunter bears the burden to demonstrate a possibility of amending the complaint. (*Randall v. Ditech Financial, LLC, supra*, 23 Cal.App.5th at p. 809.)

## DISCUSSION

According to Hunter, “[t]his appeal concerns . . . [his] year 2013 request for confidential background and identifying information about his birth parents.” In his opening brief, Hunter argues: (1) the facts alleged in the first amended complaint demonstrate that County had a “mandatory duty” to release information about his birth mother to him; (2) the trial court incorrectly concluded that County’s prior release of such identifying information satisfied its obligation; and (3) the trial court erred in applying the doctrine of collateral estoppel. Hunter seeks to review all records concerning his adoption.

Among other things, County argues that in order to obtain records from his juvenile court file, Hunter was required to follow procedures outlined in Welfare and Institutions Code section 827. County also argues that Hunter’s claims are barred by the Government Claims Act. We conclude these arguments are dispositive.<sup>3</sup>

As previously set forth, Hunter’s allegations fall into two broad categories: (1) allegations concerning DCFS’s conduct in the 1960’s and 1970’s related to Hunter’s foster and adoptive placements; and (2) allegations related to DCFS’s alleged failure

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<sup>3</sup> Because these grounds are dispositive, we do not consider the parties’ remaining arguments.



to release information to Hunter in response to Hunter’s 2013 request. All of his causes of action are based on these central allegations.

**A. The Superior Court is Not The Proper Court in Which to Seek Release of Confidential Juvenile Court Documents; the Trial Court Correctly Concluded that Hunter Was Entitled to No Relief in Superior Court**

Hunter claims he was a dependent of the juvenile court. Welfare and Institutions Code section 827<sup>4</sup> provides that juvenile court records are confidential and sets forth an exclusive procedure for their inspection by, among others, an adoptee. The “confidential information shall be sealed . . . and may not subsequently be released except in accordance with this subdivision.” (Welf. & Inst. Code, § 827, subd. (a)(1)(j)(ii).) Section 827 requires the person seeking release of the documents to file a petition in the juvenile court. (*Id.*, § 827, subd. (a)(2)(D).) “A juvenile court has broad and exclusive authority to determine whether, and to what extent, to grant access to confidential juvenile records.” (*R.S. v. Superior Court* (2009) 172 Cal.App.4th 1049, 1055.)

Hunter filed a lawsuit in superior court. He did not file a petition in the juvenile court. Hunter provides no authority countering that Welfare and Institutions Code section 827 represents the only procedure for obtaining the documents he seeks. Hunter fails to demonstrate why the mandatory procedures for obtaining confidential juvenile court records do not

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<sup>4</sup> The Legislature amended the statute in 2019. The amendment is not yet effective, and we do not consider it.

apply to him. Because he failed to follow the required procedure for obtaining confidential documents, the superior court properly dismissed his causes of action based on his quest to obtain his confidential juvenile file.<sup>5</sup> Our conclusion is without prejudice to Hunter requesting disclosure of his juvenile case file in the juvenile court. We express no opinion on the merits of such a request.

**B. Hunter Fails to Show the Trial Court Erred in Dismissing All Claims Based on His Foster and Adoptive Placements Because His Government Claim Does Not Include These Claims**

“[N]o suit for money or damages may be brought against a public entity on a cause of action for which a claim is required to be presented . . . until a written claim therefor has been presented to the public entity and has been acted upon . . . , or has been deemed to have been rejected . . . . ” (Gov. Code, § 945.4.) The purpose is “ ‘to provide the public entity sufficient information to enable it to adequately investigate claims and to

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<sup>5</sup> Hunter cites *Hubbard v. Superior Court* (1961) 189 Cal.App.2d 741. *Hubbard* discussed former Civil Code section 227, which provided: “ ‘. . . The petition, relinquishment, agreement, order, and any power of attorney and deposition must be filed in the office of the county clerk and shall not be open to inspection by any other than the parties to the action and their attorneys and the State Department of Social Welfare except upon the written authority of the judge of the superior court.’ ” (*Hubbard v. Superior Court, supra*, 189 Cal.App.2d at p. 747.) Effective 1991, the Legislature repealed former Civil Code section 227. (Stats. 1990, ch. 1363, § 2.) Because the statute no longer exists, it does not support Hunter’s request to the superior court to order the release of information in his adoption file.

settle them, if appropriate, without the expense of litigation.’ ”  
(*City of Stockton v. Superior Court* (2007) 42 Cal.4th 730, 738.)

Government Code “Section 910 lists the information that must be included in a notice of claim. As pertinent here, the claim must state the “date, place, and other circumstances of the occurrence or transaction which gave rise to the claim asserted,” provide “[a] general description of the . . . injury, damage or loss incurred so far as it may be known at the time of presentation of the claim,” and state the amount of the claim if it is less than \$10,000, or, if the claim exceeds \$10,000, the dollar amount cannot be stated but the claim must indicate whether the claim would be a limited civil case.” (*Connelly v. County of Fresno* (2006) 146 Cal.App.4th 29, 37.) Substantial compliance with these requirements may be sufficient but only if “the face of the filed claim discloses sufficient information to enable the public entity to make an adequate investigation of the claim’s merits and settle it without the expense of litigation.” (*Id.* at p. 38.)

“If the claim is rejected and the plaintiff ultimately files a complaint against the public entity, the facts underlying each cause of action in the complaint must have been fairly reflected in a timely claim. [Citation.] ‘[E]ven if the claim were timely, the complaint is vulnerable to a demurrer if it alleges a factual basis for recovery which is not fairly reflected in the written claim.’ ” (*Stockett v. Association of Cal. Water Agencies Joint Powers Ins. Authority* (2004) 34 Cal.4th 441, 447.) If a plaintiff fails does not satisfy this prerequisite, his or her claim is vulnerable to a demurrer for failure to state a cause of action. (*State of California v. Superior Court* (2004) 32 Cal.4th 1234, 1239.)

**1. On appeal, Hunter does not challenge the trial court's conclusion that his first amended complaint was broader than his government claim**

The trial court concluded that Hunter's claim filed under the Government Claim Act did not encompass his allegations of "(1) placement in a non-Jewish foster home in 1961; (2) abuse and trauma over a 15-year period by Plaintiff's adoptive parents from 1961 to 1976; (3) DCFS'[s] alleged failure to follow procedures with respect to Plaintiff's adoption that was finalized in 1967, including confirming the suitability of the adoptive home; and (4) DCFS'[s] alleged failure to perform its fiduciary duties and responsibilities related to monitoring Plaintiff's status in his adoptive home."

On appeal, Hunter does not challenge the conclusion that his first amended complaint was broader than his government claim. He characterizes this appeal as arising out of his "request for confidential background and identifying information about his birth parents." None of his appellate arguments addresses the government claim requirements.

**2. The allegations in Hunter's first amended complaint materially differ from those in his government claim**

In his first amended complaint, Hunter alleged that his adoptive parents physically abused him and that foster children sexually abused him. Hunter alleges that County was negligent in failing to investigate and prevent abuse Hunter suffered from his adoptive parents, as well as from other foster children. As set forth in more detail above, Hunter alleged "[t]he plaintiff

developed injuries requiring years of treatment continuing from the physical abuse of his adoptive parents.”

Hunter’s government claim did not identify either County’s alleged negligence or Hunter’s alleged damages. It stated only that Hunter reported abuse and Carlos Castillo failed to respond to Hunter’s report. The statement that Castillo failed to respond to Hunter’s allegations did not put County on notice that it should investigate whether DCFS negligently failed to prevent physical and sexual abuse of Hunter when he was in foster care and in his adoptive home. The government claim does not suggest that Hunter was claiming misconduct occurring in the 1960’s and 1970’s related to his foster and adoptive placements. Additionally, Hunter identified no damages in his government claim.

As the trial court found, Hunter’s government claim does not encompass County’s alleged negligence in placing him in foster care or an adoptive home or monitoring his adoptive home. The trial court also correctly noted that the government claim identifies no basis to investigate Hunter’s placement in a non-Jewish home, allegedly against his mother’s wishes. The trial court therefore properly sustained County’s demurrer to Hunter’s causes of action for damages for failure to include them in his government claim. (*Gong v. City of Rosemead* (2014) 226 Cal.App.4th 363, 374–378.)

Finally, at oral argument, Hunter argued that he could amend his complaint to assert a cause of action for deprivation of his rights pursuant to title 42 United States Code section 1983. Hunter did not allege a section 1983 claim in his first amended complaint, the operative pleading. To assert a new cause of action, he was required to obtain permission from the trial court.

(See *Community Water Coalition v. Santa Cruz County Local Agency Formation Com.* (2011) 200 Cal.App.4th 1317, 1329.)

Hunter did not request permission to file a new cause of action, and therefore demonstrates no error on appeal.

### **DISPOSITION**

The judgment of dismissal is affirmed. The dismissal is without prejudice to Hunter filing appropriate paperwork in the juvenile court requesting disclosure of his juvenile case file. The parties shall bear their own costs on appeal.

NOT TO BE PUBLISHED.

BENDIX, J.

We concur:

ROTHSCHILD, P. J.

CHANEY, J.