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NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

ANDREA LONDON, individually, and as guardian ad litem for minor children, VANESSA LONDON and EMANUEL LONDON, Plaintiffs and Appellants, v. WALNUT VALLEY UNIFIED SCHOOL DISTRICT et al., Defendants and Respondents.	B279569 (Los Angeles County Super. Ct. No. BC619378)

APPEAL from a judgment of the Superior Court of Los Angeles County, Gail Ruderman Feuer, Judge. Affirmed.

Andrea London, in pro. per.; and Corey Evan Parker for Plaintiffs and Appellants.

Barber & Bauermeister, Linda Bauermeister-Schlott and Robert Kostrenich for Defendants and Respondents.

This case arises out of an incident occurring on September 15, 2015 at Chaparral Middle School, operated by defendant Walnut Valley Unified School District (District). Plaintiff Andrea London's (London) minor daughter, Vanessa London (Vanessa), was called out of class by a counselor, defendant Christina Aquino (Aquino). Aquino detained Vanessa in her office while questioning her about a missing Spanish placement exam.

The trial court sustained a demurrer without leave to amend as to parties and causes of action not set forth in the claim it deemed London and Vanessa had presented to the District. It then granted judgment on the pleadings as to the remaining parties and causes of action on the ground Aquino's actions were justified and not tortious.

On appeal, London and Vanessa challenge both of these rulings on various grounds. We conclude the trial court did not err and affirm the judgment.

FACTUAL AND PROCEDURAL HISTORY

A. *The Complaint and Demurrer*

London filed this action individually and as guardian ad litem for her minor children, Vanessa and Emanuel London (Emanuel) on May 4, 2016. She named as defendants the District, Aquino, and numerous other individuals employed by the District. In her verified first amended complaint, she alleged causes of action for false imprisonment, civil harassment, conspiracy, failure to prevent discrimination and harassment, negligent and intentional infliction of emotional distress, breach of mandatory duty, violation of equal protection, abuse of process,

and vicarious liability. She also alleged, "An administrative claim was filed with [the District] on December 1, 2015. All claims were rejected by [the District] on January 26, 2016."

Defendants filed a demurrer on July 8, 2016. Among the grounds for the demurrer were that the plaintiffs failed to comply with the claim presentation provisions of the Government Claims Act (Gov. Code, § 900 et seq.) and the complaint included individuals and facts outside the scope of the claim (*id*., § 910).

The claim, attached as an exhibit to the demurrer, identified London as the claimant and stated: "In concert with the principal & assistant principal, the counselor used the immunity rights alloted [*sic*] to her and abused her power by unlawfully restraining, assault/battery, interrogating Vanessa London." It identified the school employee involved as Aquino and the injury/damage-causing action as abuse of power. It identified the injuries or damages suffered as "[m]ental stress, Andrea London & Vanessa London have been Dx. with ASD." Under estimated amount of prospective injury, the claim stated, "Vanessa & Emanuel London have missed more than a month of school now."

Also attached to the demurrer was the District's January 26, 2016 notice that London's claim was formally rejected on January 20. Defendants requested that the court take judicial notice of the claim and notice of rejection.

At the same time they filed their demurrer, defendants filed a motion to strike the portions of the first amended complaint seeking punitive damages and prejudgment interest.

London filed opposition to the demurrer and motion to strike. With respect to the claim form, she attempted to explain why she did not include all issues and defendants on the form.

At the August 4, 2016 hearing on the motion to strike portions of the complaint, the trial court granted defendants' request for judicial notice; granted their motion to strike the request for prejudgment interest; granted the motion to strike the request for punitive damages as to the District and some of the individual defendants; and denied the motion to strike as to Aquino and other individual defendants. The court also granted London leave to amend to state a claim for punitive damages as to the remaining defendants. (No such amendment was ever filed.)

With respect to the demurrer, the trial court noted that the parties had not complied with the new procedural rules requiring that parties meet and confer before filing a demurrer. The court therefore continued the hearing so the parties could do so.

As the parties were unable to come to an agreement, the trial court ruled on the demurrer on September 1, 2016. The court noted that "[t]he only factual basis London raised in her Government Claim was the incident involving Aquino and Vanessa London occurring on September 15, 2015 . . . and asserted in the First Cause of Action" for false imprisonment. That cause of action named Aquino only, and defendants had not demurred to that cause of action. "The court also note[d] that the Government Claim contains no allegations of any wrongdoing by any person as to plaintiff Emanuel London, only that he too has missed school. Therefore, Emanuel London is not a proper plaintiff in this action." The court found London's explanations as to why she did not include all defendants and issues in the claim form did not excuse compliance with the claim presentation requirements of the Government Claims Act. It then turned to the individual causes of action "to determine to what extent

[each] is properly based on the facts alleged in the Government Claim."

The court ultimately overruled the demurrer as to London and Vanessa's first cause of action for false imprisonment against Aquino, and their fifth and sixth causes of action for negligent and intentional infliction of emotional distress against Aquino and the District. It sustained the demurrer as to Emanuel, all other defendants, and all other causes of action. It denied leave to amend, in that London "cannot amend her complaint to cure the defects cause[d] by her failure to include any factual allegations other than the September 15, 2015 incident in her Government Claim."

The District and Aquino then filed their answer to the first amended complaint.

B. *The Allegations of the Pleadings*

1. *The Complaint*

As to the causes of action remaining following the rulings described above, London and Vanessa alleged that from August 17 through September 15, 2015, Vanessa was not allowed into an Introductory Spanish class, although there was space in the class. London called and visited Chaparral Middle School a number of times to try to rectify the matter, but she was unsuccessful.

On September 14, "Vanessa was the first student ever, at Chaparral Middle School, required to sit for an interview and entrance exam in order to gain access into the introductory Spanish elective. In addition, Vanessa was denied her request for a study guide to prepare for the exam."

On September 15, Vanessa was in her history class and was about to give a presentation when Aquino called her out of class. Vanessa did not want to leave, but her teacher insisted that she do so. When Vanessa went to Aquino's office, Aquino locked the door behind her, stood between Vanessa and the door, and told Vanessa to take a seat. Aquino moved close to Vanessa and began to question her about the Spanish exam. London had previously told Vanessa to call her if she felt threatened at school. Vanessa asked to call London, but Aquino refused to allow her to do so. When Vanessa attempted to stand, Aquino forced her back down into her chair. Vanessa became frightened and started to panic. She then admitted guilt in the face of Aquino's accusations, believing it was the only way she would be allowed out of the office.

Aquino called London and asked where the Spanish exam was. London responded that it was with the District's Director of Student Services. London heard the sound of crying and asked Aquino where Vanessa was. Aquino said she was in her office. Aquino asked London why the exam was taken to the District office, and London demanded to speak to Vanessa. When Vanessa came to the phone, London asked if she was all right. Vanessa said, "no," explaining that Aquino refused to allow her to leave the office and return to class. London instructed Vanessa to return to class. She then spoke to Aquino and demanded that she allow Vanessa to return to class. Aquino opened the door to her office, but as Vanessa attempted to leave Aquino ordered her to sit down. London demanded that Aquino allow Vanessa to return to class. Aquino yelled at Vanessa, "Stay right outside that door." During this incident, Aquino invaded Vanessa's "personal space" in a threatening manner.

2. *Defendants' Answer*

The District and Aquino alleged that Chaparral Middle School allows seventh grade students to submit their elective preferences for eighth grade at the end of the school year using a "web-based Google form." For students who do not submit their preferences, the school determines elective placement based on availability.

Vanessa failed to submit her preferences using the web-based form. Therefore, she was placed in a choir elective. Vanessa was absent from school for a week and a day beginning in August. While she was absent, the school had scheduled a meeting with her regarding a change in classes from choir to Spanish which she and her mother requested, but which she could not attend due to that absence. Also during this period, Vanessa was provided with independent study work at London's request, but Vanessa failed to complete this work. Concerned about the amount of work Vanessa had to make up and the fact that two weeks of instructional time had elapsed, the school decided that it was not in Vanessa's best interest to change electives.

At London's request, however, the school agreed to the change on condition that Vanessa successfully pass a placement assessment to determine if Vanessa had the requisite Spanish-speaking skills to enroll in the Spanish elective. A score of 75 percent on the placement exam would indicate that she had "the requisite knowledge and skills to make a successful course change this late into the school year." The District and Aquino denied that Vanessa was the first student ever required to take such a placement exam.

Vanessa took the placement exam after school on September 14, 2015. The exam was administered by the Spanish teacher. Vanessa was not given a study guide because there was no study guide. After Vanessa finished taking the placement exam, she took the exam paper with her, although she had no permission to do so.

Aquino called Vanessa to her office on September 15 to retrieve the missing exam. Vanessa told Aquino that London instructed her to bring the exam home with her. When Aquino asked Vanessa to explain, Vanessa asked her to call London. Aquino called London and told her what Vanessa said. London asked to speak to Vanessa, and Aquino handed the phone to her. After talking to London, Vanessa told Aquino that London had instructed her to return to class. Aquino allowed Vanessa to return to class. London then asked Aquino, "Did you twist my daughter's arm to come to the office?" Aquino responded by explaining the procedure for calling a student to come to the office.

The District and Aquino denied the material allegations of the complaint, including the following: That Aquino locked her door after Vanessa entered her office; that she had positioned herself between Vanessa and the door; that Aquino refused to allow Vanessa to call London or to leave her office and return to class; that Aquino forced Vanessa back into her chair when she tried to stand or yelled at Vanessa, "Stay right outside that door;" that Aquino invaded Vanessa's personal space in a threatening manner; and that Vanessa was frightened and beginning to panic and admitted guilt only to get out of Aquino's office. Defendants alleged that "[t]he only questioning was why did she take the test and where it was taken and Vanessa London advised [Aquino

that] Andrea London had instructed her to steal the test and take it home."

London also alleged that after she had "contacted the Los Angeles County Sheriff's Department alleging unlawful restraint as well as assault and battery[,] the Sheriff's Department concluded that no unprofessional conduct had occurred nor had Vanessa London's rights been violated."

C. *The Motion for Judgment on the Pleadings*

The District and Aquino moved for judgment on the pleadings on the grounds their actions were both justified and privileged. They claimed Aquino had reasonable cause to detain Vanessa to investigate the removal of the placement exam from the school.

London filed opposition on behalf of herself and Vanessa.[1] She denied that Aquino's actions were justified or privileged.

The trial court granted the motion without leave to amend. The court rejected the claim of privilege, explaining that neither Penal Code section 490.5, subdivision (f)(1), nor Civil Code section 47, subdivision (b), on which the District and Aquino relied, applied to a claim of false imprisonment against a school administrator.[2]

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[1] London erroneously identified the District and Aquino's motion as one for summary judgment in her memorandum in opposition.

[2] Penal Code section 490.5, subdivision (f), gives a merchant the right to detain a suspected shoplifter. Civil Code section 47, subdivision (b), refers to privileged publications made in legislative, judicial, and other proceedings.

The court also found Aquino's detention of Vanessa was lawful under *In re Randy G.* (2001) 26 Cal.4th 556 (*Randy G.*), which allowed Aquino to detain Vanessa in her office to investigate the missing exam. The court noted that although London and Vanessa alleged that Aquino invaded Vanessa's personal space and forced her back down into her chair when she tried to stand, "[a]t the hearing, the Londons clarified that Acquino [*sic*] did not physically touch Vanessa in keeping her in the office, but merely stood up and act[ed] in a 'threatening' manner." London and Vanessa "failed to cite to any law holding that a school official's use of merely 'threatening' behavior to keep the student in the administrator's office, absent any physical coercion, could be so unreasonable as to result in liability for false imprisonment or any other tort." Because the District and Aquino could not be held liable for false imprisonment, the causes of action for negligent and intentional infliction of emotional distress based on the same conduct also failed.

The court entered judgment in favor of the District and Aquino and against London and Vanessa on November 10, 2016. London filed a timely notice of appeal from the judgment.

DISCUSSION

A. *Scope of Appeal*

The notice of appeal specifies that London appeals from the judgment entered on November 10, 2016, checking the boxes for "Judgment of dismissal after an order sustaining a demurrer" and "An order after judgment under Code of Civil Procedure section 904.1[, subdivision](a)(2)." It does not name Vanessa or Emanuel as an appellant. The District and Aquino therefore

claim London is the only party to this appeal. We conclude that the policy favoring liberal construction of notices of appeal compels us to consider the appeal as taken by both London and Vanessa.

California Rules of Court, rule 8.100(a)(2), provides that a notice of appeal must be liberally construed. This provision reflects the "'strong public policy in favor of hearing appeals on the merits [which] operates against depriving an aggrieved party or attorney of a right of appeal because of noncompliance with technical requirements' [citation]." (*Unilogic, Inc. v. Burroughs Corp.* (1992) 10 Cal.App.4th 612, 624; see also *United Farm Workers of America v. Agricultural Labor Relations Bd.* (1985) 37 Cal.3d 912, 916.) Thus, where one party has been misidentified in or omitted from the notice of appeal, the notice of appeal will be liberally construed to include that party in the absence of any prejudice to the opposing parties. (*Beltram v. Appellate Department* (1977) 66 Cal.App.3d 711, 715-716; see, e.g., *Chung Sing v. Southern Pacific Co.* (1918) 178 Cal. 261, 263-264.)

In *Toal v. Tardif* (2009) 178 Cal.App.4th 1208, after a judgment was entered against a husband and wife, the husband filed a notice of appeal which he signed but which did not state the name of the party taking the appeal. The court concluded that both husband and wife were parties to the appeal. (*Id.* at p. 1216.) The court explained that "California Rules of Court, rule 8.100(a)(1) provides that the 'appellant or the appellant's attorney must sign the notice [of appeal].' This language has been construed, however, to allow '*any person,* attorney or not, who is empowered to act on appellant's behalf,' to sign the notice of appeal. [Citation.]" (*Ibid.*; see, e.g., *Rogers v. Municipal Court* (1988) 197 Cal.App.3d 1314, 1318-1319 [corporate officer could

file notice of appeal on behalf of corporation].) In the absence of any indication that the husband was not authorized to act on behalf of the wife, the court concluded he was authorized to do so. (*Toal*, *supra*, at p. 1216.) "Moreover, '[t]he notice of appeal must be liberally construed. The notice is sufficient if it identifies the particular judgment or order being appealed.' (Cal. Rules of Court, rule 8.100(a)(2).)" (*Ibid*.) Because the notice of appeal identified the judgment which subjected both the husband and the wife to the same award as that challenged on appeal, liberal construction of the notice of appeal compelled the conclusion that both husband and wife appealed from the judgment." (*Id*. at pp. 1216-1217.) The court added, "Finally, no prejudice results from our liberal construction. The parties have argued the merits as to both appellants." (*Id*. at p. 1217.)

Similarly, in cases involving appeals from orders imposing sanctions against parties and their attorneys, courts have "appl[ied] the doctrine of liberal construction of a notice of appeal [citation], deem[ing] a notice that named only a party to include his attorney, who had filed the notice and against whom the sanctions had been assessed." (*Eichenbaum v. Alon* (2003) 106 Cal.App.4th 967, 974.)

Here, although London listed her name only on the notice of appeal, the documents in the case are clear that she brought the lawsuit not only on her behalf but also as guardian ad litem for Vanessa. The November 10, 2016 judgment on the pleadings—the date of the judgment identified by the notice of appeal—was rendered against both London and Vanessa. Most importantly, the District and Aquino will not be prejudiced if we construe the notice of appeal to include Vanessa, in that the issues are the same and the District and Aquino have argued the

merits of the case as to both London and Vanessa. Accordingly, we construe the notice of appeal to include Vanessa.

The foregoing analysis does not apply to Emanuel, however. He was not a party to the judgment on the pleadings from which the appeal was taken. As far as we can tell from the record, no final, appealable judgment or order of dismissal as to Emanuel or the other defendants was ever entered following the order sustaining the defendants' demurrer as to these parties. Any issues involving Emanuel or the other defendants are not before us as our jurisdiction is limited to final judgments and orders described in Code of Civil Procedure section 904.1. (*Baker v. Castaldi* (2015) 235 Cal.App.4th 218, 222-223; *Papadakis v. Zelis* (1992) 8 Cal.App.4th 1146, 1149.)

The District and Aquino claim that "[a]ny purported appeal from the rulings on demurrer, are not from a final judgment, and should not be considered, especially in that those rulings did not dispose of the entire action at that time." They nevertheless address the propriety of those rulings. Because the propriety of the trial court's rulings on a demurrer is reviewable on appeal from the final judgment, and there is a final judgment as to London, Vanessa, the District, and Aquino, we may review the trial court's rulings on the demurrer as to these parties on this appeal. (*Bridgeman v. Allen* (2013) 219 Cal.App.4th 288, 296.) The notice of appeal refers to a judgment of dismissal entered after an order sustaining a demurrer. The District and Aquino, having addressed the rulings on demurrer, are not prejudiced by our construction of the notice of appeal to include the trial court's rulings on the demurrer as to these parties.

B. *The Rulings on Demurrer*

1. *Standard of Review*

"A demurrer tests the legal sufficiency of the factual allegations in a complaint. We independently review the superior court's ruling on a demurrer and determine de novo whether the complaint alleges facts sufficient to state a cause of action or discloses a complete defense. [Citations.] We assume the truth of the properly pleaded factual allegations, facts that reasonably can be inferred from those expressly pleaded and matters of which judicial notice has been taken. [Citations.] We liberally construe the pleading with a view to substantial justice between the parties. [Citations.]" (*Sarun v. Dignity Health* (2014) 232 Cal.App.4th 1159, 1165.) "A demurrer is properly sustained when '[t]he pleading does not state facts sufficient to constitute a cause of action.' (Code Civ. Proc., § 430.10, subd. (e).)" (*Roy Allan Slurry Seal, Inc. v. American Asphalt South, Inc.* (2017) 2 Cal.5th 505, 512.)

"We review the trial court's denial of leave to amend for an abuse of discretion." (*Rea v. Blue Shield of California* (2014) 226 Cal.App.4th 1209, 1223; accord, *Westside Estate Agency, Inc. v. Randall* (2016) 6 Cal.App.5th 317, 323.) The question before us is "'whether there is a reasonable probability that the defect can be cured by amendment. [Citation.]' [Citation.]" (*Rea*, *supra*, at p. 1223; accord, *Westside Estate Agency, Inc.*, *supra*, at p. 323.) The "trial court does not abuse its discretion when it sustains a demurrer without leave to amend if either (a) the facts and the nature of the claims are clear and no liability exists, or (b) it is probable from the nature of the defects and previous unsuccessful attempts to plead that the plaintiff cannot state a claim. [Citation.]" (*Cantu v. Resolution Trust Corp.* (1992) 4

Cal.App.4th 857, 890; accord, *Doe v. United States Youth Soccer Assn., Inc.* (2017) 8 Cal.App.5th 1118, 1143.) The plaintiffs have the burden of showing how they can amend their complaint and how that amendment will change the legal effect of the complaint. (*Schifando v. City of Los Angeles* (2003) 31 Cal.4th 1074, 1082; *Los Globos Corp. v. City of Los Angeles* (2017) 17 Cal.App.5th 627, 632.)

The plaintiffs' "failure to allege compliance or circumstances excusing compliance with the claim presentation requirement subjects a complaint to a general demurrer for failure to state facts sufficient to constitute a cause of action." (*State of California v. Superior Court* (2004) 32 Cal.4th 1234, 1245; accord, *Gong v. City of Rosemead* (2014) 226 Cal.App.4th 363, 374.) We thus turn to the question whether the trial court erred in finding the claim filed herein covered only London's and Vanessa's causes of action for false imprisonment, negligent and intentional infliction of emotional distress.

2. *The Government Claims Act*

Under Government Code section 945.4,[3] "no 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 in accordance with . . . Section 910 . . . until a written claim therefor has been presented to the public entity and has been acted upon by the board, or has been deemed to have been rejected by the board . . . ." Section 910 requires that the claim include "(a) The name and post office address of the claimant. [¶] . . . [¶] (c) The

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[3] All further statutory references are to the Government Code.

date, place and other circumstances of the occurrence or transaction which gave rise to the claim asserted. [¶] (d) A general description of the indebtedness, obligation, injury, damage or loss incurred so far as it may be known at the time of presentation of the claim. [¶] (e) The name or names of the public employee or employees causing the injury, damage, or loss, if known. . . ."

Thus, maintenance of an action against a local public entity or its employee "is subject to a procedural condition precedent; that is to say, the timely filing of a written claim with the proper officer or body is an element of a valid cause of action against a public entity. (See §§ 900.4, 905 . . . .) Compliance is mandatory, and cannot be excused on the theory that the entity was not surprised by the suit. 'It is not the purpose of the claims statutes to prevent surprise. Rather, the purpose of these statutes is to provide the public entity sufficient information to enable it to adequately investigate claims and to settle them, if appropriate, without the expense of litigation. [Citations.] It is well-settled that claims statutes must be satisfied even in [the] face of the public entity's actual knowledge of the circumstances surrounding the claim. Such knowledge—standing alone—constitutes neither substantial compliance nor basis for estoppel.' [Citation.] The failure to timely present a proper claim for money or damages to a public entity bars a plaintiff from filing a lawsuit against that entity. [Citation.]" (*Gong v. City of Rosemead*, *supra*, 226 Cal.App.4th at p. 374.)

Additionally, "[i]n order to comply with the claim presentation requirement, the facts alleged in a complaint filed in the trial court supporting a cause of action against a government employee, including the damages alleged to have been suffered by

the claimant, must be consistent with the facts contained within the government claim. [Citation.]" (*Gong v. City of Rosemead*, *supra*, 226 Cal.App.4th at p. 376.) That is, "'"[E]ach cause of action must [be] reflected in a timely claim. In addition, the factual circumstances set forth in the written claim must correspond with the facts alleged in the complaint; even 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. [Citations.]" [Citation.]'" (*Ibid.*; accord, *Stockett v. Association of Cal. Water Agencies Joint Powers Ins. Authority* (2004) 34 Cal.4th 441, 447.)

3. *Application*[4]

London and Vanessa argue that the District knew the gravamen of their claims, in that London "has submitted hundreds of pages of evidentiary support for her children's claims

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[4] London and Vanessa's opening brief, which was filed in pro. per., is a mix of relevant and irrelevant points and arguments. In the trial court, it appears that London was allowed to represent the plaintiffs pro per although she is not a lawyer, doing so without objection by counsel or correction by the trial court. London and Vanessa retained counsel at some point after they had filed their opening brief on appeal; that counsel included in the reply brief a clarification of arguments made in the opening brief. We address the issues as presented in the reply brief.

Because London and Vanessa are now represented by counsel, we do not address the District and Aquino's argument that London could not represent Vanessa because London is not an attorney. Further, because the reply brief is a restatement of the arguments made inartfully in the opening brief, we do not address the District and Aquino's point that we should disregard any new arguments raised in the reply brief.

for personal injury and civil rights violations against the District and its employees to the [S]tate of California," i.e., the California Commission on Teacher Credentialing.

However, as stated above, the claim must be "presented to the public entity" being sued. (§ 945.4; see *Gong v. City of Rosemead*, *supra*, 226 Cal.App.4th at p. 374.) "Compliance is mandatory, and cannot be excused on the theory that the entity was not surprised by the suit." (*Gong*, *supra*, at p. 374.) Thus, London's complaints to the California Commission on Teacher Credentialing cannot substitute for a claim properly filed with the District.

It is true that "[t]he Government Claims Act requires only substantial compliance with the claims presentation requirement. [Citation.]" (*Westcon Construction Corp. v. County of Sacramento* (2007) 152 Cal.App.4th 183, 200.) Substantial compliance requires filing the claim with the proper entity, however. (*Id*. at p. 202.) Here, the California Commission on Teacher Credentialing was not the proper entity, and the documentation sent to the commission "was deficient as a claim because it was not sent to the proper authority." (*Id*. at p. 203.)

London and Vanessa argue that "[t]he District was warned of the London [c]hildren's claims and had [an] opportunity to consider the validity of those claims." They cite *Fall River Joint Unified School Dist. v. Superior Court* (1988) 206 Cal.App.3d 431 for the proposition that noncompliance with the Government Claims Act may be found where the defendant "was given no warning it might be sued on [a particular] theory and had no opportunity to consider the validity of such a claim," arguing that such a warning was given in this case. Their reliance on *Fall River* is inapposite as the holding there was based on the

principle that the theory behind each cause of action must appear in the claim. (*Id*. at p. 434.) That court found no substantial compliance "where the plaintiff seeks to impose upon the defendant public entity the obligation to defend a lawsuit based upon a set of facts entirely different from those first noticed. Such an obvious subversion of the purposes of the claims act, which is intended to give the governmental agency an opportunity to investigate and evaluate its potential liability, is unsupportable. [Citation.]" (*Id*. at pp. 435-436.) The *Fall River* court also noted the school district's lack of warning, but the basis of the court's decision was the failure to comply with the claims act.

Thus, even if the District were aware of the bases of all causes of action London, Vanessa, and Emanuel sought to raise from the documents London provided to the California Commission on Teacher Credentialing, this lawsuit would still be limited to those causes of action reflected in the written claim presented to the District. "It is well-settled that claims statutes must be satisfied even in face of the public entity's actual knowledge of the circumstances surrounding the claim. Such knowledge—standing alone—constitutes neither substantial compliance nor basis for estoppel. [Citations.]" (*City of San Jose v. Superior Court* (1974) 12 Cal.3d 447, 455.)

London and Vanessa suggest the claim form's inadequacies and lack of explanation as to how it should be filled out to accommodate multiple claimants and claims are responsible for their failure to set forth all of the claims on the form, and they therefore should not be penalized for their failure to comply with

the claim presentation requirements.[5] They cite no authority for this proposition. "It is established beyond controversy that the timely filing of a claim is a prerequisite to the maintenance of an action and that the claim filing requirement is applicable to minors [citations]." (*Carr v. State of California* (1976) 58 Cal.App.3d 139, 145; accord, *Dujardin v. Ventura County Gen. Hosp.* (1977) 69 Cal.App.3d 350, 358.) Thus, their claim in this regard is without merit.

London and Vanessa also assert the District failed to request additional information, and Vanessa and Emanuel "should not be prejudiced by the inadequacy of the [claim form] or by the District's failure to properly investigate their claims." Again, London and Vanessa cite no authority for this position.

Section 910.8 provides that if the public entity determines that "a claim as presented fails to comply substantially with the requirements of Sections 910 and 910.2," the entity *may* "give written notice of its insufficiency, stating with particularity the defects or omissions therein." Any duty to notify a claimant of the inadequacy of a claim "necessarily presumes the defect is disclosed on the face of the form," and does not apply to the failure to include additional claims or claimants on the form. (*Nelson v. County of Los Angeles* (2003) 113 Cal.App.4th 783, 797.) That is the situation in the present case; the omissions which London and Vanessa now seek to excuse were not disclosed on the fact of the claim form.

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[5] Nor is London's lack of legal training a basis upon which to excuse her failure to properly complete the claim form. (Cf. *Rappleyea v. Campbell* (1994) 8 Cal.4th 975, 984-985 [pro. per. litigant is held to the same standard as an attorney].)

Accordingly, it is clear that the trial court did not err in sustaining the defendants' demurrer as to all parties and causes of action not reflected in the claim presented to the District.

4. *Denial of Leave To Amend*

Finally, London and Vanessa assert that even if their claim covers only the September 15, 2015 incident involving Aquino, "all the possible claims and damages arising from that incident would fall within the scope of the [claim f]orm." For this reason, they argue, they should have been granted leave to amend to state additional causes of action based on that incident.

In determining whether the trial court abused its discretion in denying London and Vanessa leave to amend, we note that "'"[i]f a plaintiff relies on more than one theory of recovery against the [governmental agency], each cause of action must have been reflected in a timely claim. In addition, the factual circumstances set forth in the written claim must correspond with the facts alleged in the complaint . . . ." [Citations.]' Citation.]" (*Fall River Joint Unified School Dist. v. Superior Court*, *supra*, 206 Cal.App.3d at p. 434.) Further, the plaintiffs bear the burden of showing how they can amend their complaint and how that amendment will state a cause of action (*Schifando v. City of Los Angeles*, *supra*, 31 Cal.4th at p. 1081) corresponding to the facts and theories included within the scope of the claim.

Counsel for London and Vanessa does not specify how the complaint could be amended and how those amendments would state a cause of action. Instead, counsel refers to that portion of the opening brief which refers to the causes of action for negligence, intentional infliction of emotional distress, and false imprisonment. These were the causes of action which survived

the demurrer by the District and Aquino. Hence, no amendment was necessary. With respect to the causes of action to which the demurrer was sustained, London and Vanessa failed to meet their burden of demonstrating how they could have amended their complaint to state a cause of action. We therefore perceive no abuse of discretion in the trial court's denial of leave to amend. (*Westside Estate Agency, Inc. v. Randall*, *supra*, 6 Cal.App.5th at p. 323; *Rea v. Blue Shield of California*, *supra*, 226 Cal.App.4th at p. 1223.)

C. *Judgment on the Pleadings*

1. *Standard of Review*

"'A judgment on the pleadings in favor of the defendant is appropriate when the complaint fails to allege facts sufficient to state a cause of action. [Citation.] A motion for judgment on the pleadings is equivalent to a demurrer and is governed by the same de novo standard of review.' [Citation.]" (*People ex rel. Harris v. Pac Anchor Transportation, Inc.* (2014) 59 Cal.4th 772, 777.) "'Review of a judgment on the pleadings requires the appellate court to determine, de novo and as a matter of law, whether the complaint states a cause of action. [Citation.] For purposes of this review, we accept as true all material facts alleged in the complaint. [Citation.] Denial of leave to amend after granting a motion for judgment on the pleadings is reviewed for abuse of discretion. [Citation.]' [Citation.]" (*Ludgate Ins. Co. v. Lockheed Martin Corp.* (2000) 82 Cal.App.4th 592, 602; accord, *Towery v. State of California* (2017) 14 Cal.App.5th 226, 232.)

2. *False Imprisonment Cause of Action*

a. Randy G.

In granting the motion for judgment on the pleadings, the trial court relied on *Randy G.*, *supra*, 26 Cal.4th 556. London and Vanessa argue that *Randy G.* is distinguishable from the instant case, in that it did not involve the Government Claims Act, a tort claim against the school district, or a school district's claim of privilege or immunity for its employees' actions. We agree with the trial court that the principles set forth in *Randy G.* apply here.

Randy G. involved a student who was called out of class and detained in a hallway. He consented to a search, which revealed a knife in his possession. He moved to suppress the knife on the ground his consent to the search was the product of an unlawful detention. (*Randy G.*, *supra*, 26 Cal.4th at pp. 559-561.) He asserted his detention was unlawful under the Fourth Amendment "because the campus security officer . . . lacked reasonable suspicion of criminal activity or violation of a school rule." (*Id.* at p. 561.)

The court began its analysis with the question whether the student was detained. Under *Terry v. Ohio* (1968) 392 U.S. 1 [88 S.Ct. 1868, 20 L.Ed.2d 889], "[a] detention occurs '[o]nly when the officer, by means of physical force or show of authority, has in some way restrained the liberty of a citizen . . . .'" (*Randy G.*, *supra*, 26 Cal.4th at p. 562, quoting *Terry*, *supra*, at p. 19, fn. 16.) Minor students, however, lack the right to come and go as they choose, and schools are permitted to exercise "'a degree of supervision and control [over them] that could not be exercised over free adults.'" (*Randy G.*, *supra*, at p. 562, quoting *Vernonia*

School Dist. 47J v. Acton (1995) 515 U.S. 646, 654 [115 S.Ct. 2386, 132 L.Ed.2d 564].)

"At school, events calling for discipline are frequent occurrences and sometimes require 'immediate, effective action.' [Citation.] To respond in an appropriate manner, "'teachers and school administrators must have broad supervisory and disciplinary powers.'" [Citation.] California law, for example, permits principals, teachers, and any other certificated employees to exercise 'the same degree of physical control over a pupil that a parent would be legally privileged to exercise . . . which in no event shall exceed the amount of physical control reasonably necessary to maintain order, protect property, or protect the health and safety of pupils, or to maintain proper and appropriate conditions conducive to learning.' (Ed. Code, § 44807.)" (*Randy G.*, *supra*, 26 Cal.4th at p. 563.)

Additionally, the court pointed out, "[e]ncounters on school grounds between students and school personnel are constant and much more varied than those on the street between citizens and law enforcement officers. While at school, a student may be stopped, told to remain in or leave a classroom, directed to go to a particular classroom, given an errand, sent to study hall, called to the office, or held after school. Unlike a citizen on the street, a minor student is 'subject to the ordering and direction of teachers and administrators. . . . [¶] [A student is] not free to roam the halls or to remain in [the] classroom as long as she please[s], even if she behave[s] herself. She [is] deprived of liberty to some degree from the moment she enter[s] school, and no one could suggest a constitutional infringement based on that basic deprivation.' [Citations.]" (*Randy G.*, *supra*, 26 Cal.4th at p. 563.)

The court thus concluded that "when a school official stops a student to ask a question, it would appear that the student's liberty has not been restrained over and above the limitations he or she already experiences by attending school. Accordingly, the conduct of school officials in moving students about the classroom or from one classroom to another, sending students to the office, or taking them into the hallway to ask a question would not seem to qualify as a detention as defined by the Fourth Amendment. In the absence of a Fourth Amendment claim, relief, if at all, would come by showing that school officials acted in such an arbitrary manner as to deprive the student of substantive due process in violation of the Fourteenth Amendment. [Citation.]" (*Randy G.*, *supra*, 26 Cal.4th at pp. 563-564.)[6]

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[6] After reviewing a number of cases analyzing whether restraints on a minor student's movements at school implicated the Fourth Amendment, the court stated: "Neither this court nor the Supreme Court has deemed stopping a student on school grounds during school hours, calling a student into the corridor to discuss a school-related matter, or summoning a student to the principal's office for such purposes to be a detention within the meaning of the Fourth Amendment. For the reasons stated above, we would be hesitant to term such conduct a 'detention' here. However, we find it unnecessary to decide whether school officials' infringement on the residuum of liberty retained by the student is properly analyzed as a detention under the Fourth Amendment or as a deprivation of substantive due process under the Fourteenth Amendment, for (as we explain below) we discover that the test under either clause is substantially the same—namely, whether the school officials' conduct was arbitrary, capricious, or undertaken for purposes of harassment." (*Randy G.*, *supra*, 26 Cal.4th at p. 565.)

The United States Supreme Court has upheld "the on-campus search of a minor student's person, the type of intrusion that ordinarily must be supported by probable cause to believe a violation of the law has occurred, so long as there were reasonable grounds for suspecting the search would uncover evidence of a violation of law or school rules. [Citation.]" (*Randy G.*, *supra*, 26 Cal.4th at p. 565.) Where, as in the case before it, a seizure is involved, "the test for assessing the reasonableness of official conduct under the Fourth Amendment is essentially the same: 'it is necessary "first to focus upon the governmental interest which allegedly justifies official intrusion upon the constitutionally protected interests of the private citizen," for there is "no ready test for determining reasonableness other than by balancing the need to search [or seize] against the invasion which the search [or seizure] entails."' [Citation.] Here, 'the "reasonableness" inquiry cannot disregard the schools' custodial and tutelary responsibility for children.' [Citation.]" (*Id.* at p. 566.)

Applying this balancing test, the *Randy G.* court explained, "The governmental interest at stake is of the highest order. '[E]ducation is perhaps the most important function of state and local governments.' [Citation.] 'Some modicum of discipline and order is essential if the educational function is to be performed.' [Citation.] School personnel, to maintain or promote order, may need to send students into and out of classrooms, define or alter schedules, summon students to the office, or question them in the hall. Yet, as the high court has observed, school officials 'are not in the business of investigating violations of the criminal laws . . . and otherwise have little occasion to become familiar with the intricacies of this Court's Fourth Amendment jurisprudence.'

[Citation.] Those officials must be permitted to exercise their broad supervisory and disciplinary powers, without worrying that every encounter with a student will be converted into an opportunity for constitutional review. To allow minor students to challenge each of those decisions, through a motion to suppress or in a civil rights action under 42 United States Code section 1983, as lacking articulable facts supporting reasonable suspicion would make a mockery of school discipline and order.

"On the other hand, the intrusion on the minor student is trivial since, as stated, the minor is not free to move about during the school day. If the school can require the minor's presence on campus during school hours, attendance at assigned classes during their scheduled meeting times, appearance at assemblies in the auditorium, and participation in physical education classes out of doors, liberty is scarcely infringed if a school security guard leads the student into the hall to ask questions about a potential rule violation." (*Randy G.*, *supra*, 26 Cal.4th at p. 566.) The court concluded "that detentions of minor students on school grounds do not offend the Constitution, so long as they are not arbitrary, capricious, or for the purposes of harassment. [Citations.]" (*Id.* at p. 567.) In the case before it, because the minor student did not contend that the campus security officer acted arbitrarily, capriciously, or in a harassing manner in detaining him in the hallway, the court concluded there was no Fourth Amendment violation. (*Id.* at p. 568.)

b. False Imprisonment

False imprisonment is the "'"nonconsensual, intentional confinement of a person, without lawful privilege, for an appreciable length of time, however short."' [Citation.] . . .

Restraint may be effectuated by means of physical force [citation], threat of force or of arrest [citation], confinement by physical barriers [citation], or by means of any other form of unreasonable duress. [Citation.]" (*Fermino v. Fedco, Inc.* (1994) 7 Cal.4th 701, 715.) The only intent required "is the intent to confine, or to create a similar intrusion. [Citations.] Thus, the intent element of false imprisonment does not entail an intent or motive to cause harm; indeed false imprisonments often appear to arise from initially legitimate motives. [Citation.]" (*Id.* at p. 716.)

The requirement that the confinement be without lawful privilege "'relat[es] to conduct that is without valid legal authority.'" (*Asgari v. City of Los Angeles* (1997) 15 Cal.4th 744, 757; see, e.g., *Gillan v. City of San Marino* (2007) 147 Cal.App.4th 1033, 1049-1050 [liability for false imprisonment ceases when the plaintiff is arraigned and thereafter held by lawful process]; *Easton v. Sutter Coast Hospital* (2000) 80 Cal.App.4th 485, 496 [paramedics' removal of the plaintiffs' mother to the hospital against her wishes was not without lawful privilege where the Elder Abuse and Dependent Adult Civil Protection Act permitted law enforcement to take her into temporary emergency protective custody]; *Lopez v. City of Oxnard* (1989) 207 Cal.App.3d 1, 10 ["'Imprisonment based upon a lawful arrest is not false, and is not actionable in tort'"].)

Under *Randy G.*, school officials may lawfully detain minor students on school grounds so long as the detention is not arbitrary, capricious, or for the purpose of harassment. (*Randy G.*, *supra*, 26 Cal.4th at p. 567.) Detention of a student where there is reasonable cause to believe the student has broken school

rules is lawful (see *id.* at p. 565) and thus does not constitute false imprisonment.

That *Randy G.* involved a criminal charge and a suppression motion under the Fourth Amendment, while this case involves a tort claim, is of no significance. The relevant principles in the two cases involve the circumstances under which a detention of a student is lawful.[7]

The authorities London and Vanessa cite regarding public employees' lack of immunity from suit for false imprisonment under the Government Code or immunity from criminal prosecution for exercising control over students under the Education Code are inapplicable here. The question is not whether the District and Aquino are immune from suit; it is whether their actions were lawful and therefore could not form the basis of an action for false imprisonment.

c. Application

The trial court found "it cannot be said that Aquino 'unlawfully' detained Vanessa London on September 15, 2015. Aquino is alleged to have brought Vanessa London into her office as part of an investigation to ask questions about a missing Spanish entrance exam. At one point, the office door was closed, but Aquino later opened the door, but yelled at Vanessa to 'Stay right outside that door!" and denied Vanessa the ability to leave multiple times. . . . These actions are well within the lawful

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[7] The trial court recognized "that *Randy G.* does not address the civil tort of false imprisonment. But its recitation of law regarding basic limitations on student freedom, and the power of school officials to restrain students while in school, are equally applicable to a false imprisonment claim."

bounds of school administrators' authority as set forth in *Randy G.*"

The trial court rejected London and Vanessa's argument that Aquino's actions were arbitrary and capricious because Aquino knew where the missing exam paper was. It pointed out that the first amended complaint did not allege that Aquino knew where the exam paper was or that a District official had informed her about the missing exam paper.

The trial court also found the first amended complaint did not allege that Aquino acted in a harassing manner. It alleged that she called Vanessa into her office "specifically to discuss the issue of the missing test . . . not for the purpose of harassing Vanessa."

London and Vanessa argue on appeal that "Aquino had no reason to take Vanessa out of class, force her to come to the office, shut and lock the door, interrogate Vanessa, deny her requests to call her mother, making her cry, or causing her extreme panic. . . . Aquino knew that Vanessa was allowed to take the Spanish entrance exam and did so with the school's permission. Taking an exam home to review is a common act that should not have led to any questioning or detainment, let alone such an egregious and aggressive one."

However, as noted, London and Vanessa did not allege that Aquino knew where the exam was. They did not allege that Vanessa had permission to take the exam paper or that Aquino knew she had permission. Rather, they alleged that when Aquino called London, she was "asking about the whereabouts of the Spanish entrance exam" and "why the exam was taken." Neither did the first amended complaint contain any allegations that students were commonly allowed to take home placement

exams for review, making Aquino's questioning of Vanessa for doing so an arbitrary and capricious act or one intended for the purpose of harassment.

London and Vanessa argue that where a complaint "raises a factual question whether" the defendants' actions are privileged, the existence of the privilege "is an issue of fact not properly resolved on a demurrer. The demurrer tests the pleading alone, not evidence or other matters; defendants cannot set forth allegations of fact in their demurrers which, if true, would defeat plaintiff's complaint. [Citation.]" (*Fuhrman v. California Satellite Systems* (1986) 179 Cal.App.3d 408, 422-423, fn. omitted, disapproved on another ground in *Silberg v. Anderson* (1990) 50 Cal.3d 205, 219.)

What they fail to do is identify the allegations of the first amended complaint which raise a factual question as to whether Aquino was lawfully privileged to detain and question Vanessa. Where the existence of a privilege appears on the face of the complaint, it may be raised by demurrer (and thus by a motion for judgment on the pleadings). (*Redfearn v. Trader Joe's Co.* (2018) 20 Cal.App.5th 989, 1007; see *Bergeron v. Boyd* (2014) 223 Cal.App.4th 877, 889.)

London and Vanessa also fail to specify what additional facts they could allege to overcome a finding of lawful privilege even though they have the burden of showing how their complaint could be amended to state a cause of action for false imprisonment. (*Dudley v. Department of Transportation* (2001) 90 Cal.App.4th 255, 260; see *Holland v. Jones* (2012) 210 Cal.App.4th 378, 382 [where the plaintiff "presented no basis on which he can amend his complaint to avoid the litigation

privilege, the trial court properly sustained a demurrer to his complaint without leave to amend" (fn. omitted)].)

London argues that she "should have been granted leave to amend. In an amended complaint[, she] would have had the opportunity, as she noted in her Motion for Reconsideration, to explain why the false imprisonment was a result of retaliation, racial discrimination or other arbitrary, capricious or harassing reasons." The only "facts" she points to, however, are (1) her statement in opposition to the demurrer that "[t]his is a Civil Rights case arising from [the District] ignoring continued complaints of child abuse by faculty and administrators at Quail Summit Elementary and Chaparral Middle school . . ."; and (2) her statement in her second motion for reconsideration that she became "particularly upset upon viewing the test and explained to Vanessa that the nature of the test, especially pertaining to content is very consistent with the 'Jim Crow' literacy test that was mandatory of African American voters back in the 1830s," and she "was trying to protect Vanessa from the hurtful and humiliating effects of racial discrimination."

London does not identify how these facts would both show that Aquino's actions were not lawfully privileged and fall within the parameters of the claim presented to the District, i.e., state a cause of action. (*Schifando v. City of Los Angeles*, *supra*, 31 Cal.4th at p. 1082; *Dudley v. Department of Transportation*, *supra*, 90 Cal.App.4th at p. 260.) She and Vanessa have failed to show the trial court erred in granting the judgment on the pleadings as to their false imprisonment cause of action, or abused its discretion in denying leave to amend.

3. *Negligent and Intentional Infliction of Emotional Distress Causes of Action*

As the trial court observed, negligent infliction of emotional distress "'"is not an independent tort but the tort of *negligence* . . . ." [Citation.] "The traditional elements of duty, breach of duty, causation, and damages apply."' [Citation.]" (*Eriksson v. Nunnink* (2015) 233 Cal.App.4th 708, 729; accord, *Huggins v. Longs Drug Stores California, Inc.* (1993) 6 Cal.4th 124, 129.)

Intentional infliction of emotional distress is an independent tort, requiring "'"(1) outrageous conduct by the defendant, (2) intention to cause or reckless disregard of the probability of causing emotional distress, (3) severe emotional suffering and (4) actual and proximate causation of the emotional distress."' [Citation.]" (*Bikkina v. Mahadevan* (2015) 241 Cal.App.4th 70, 87-88; accord, *Hughes v. Pair* (2009) 46 Cal.4th 1035, 1050.)

The trial court found that because the emotional distress causes of action were based on the same facts as the false imprisonment cause of action, there was no breach of duty or outrageous conduct. Rather, the District and Aquino were exercising their lawful right to control students on campus.

London and Vanessa's argument with respect to these causes of action is basically that Aquino acted arbitrarily and capriciously, and for the purpose of harassing Vanessa. As discussed above, the allegations of their complaint do not support this argument. They have thus failed to demonstrate that the trial court erred in granting a judgment on the pleadings as to these causes of action. (*Schifando v. City of Los Angeles*, *supra*,

31 Cal.4th at p. 1082; *Dudley v. Department of Transportation*, *supra*, 90 Cal.App.4th at p. 260.)

D. *The District and Aquino's Request for Sanctions for Frivolous Appeal*

The District and Aquino request an award of monetary sanctions for frivolous appeal and for violations of court rules, including attaching to the opening brief documents that are not part of the record on appeal. (Code Civ. Proc., § 907; Cal. Rules of Court, rule 8.276(a).) Counsel for London and Vanessa, while acknowledging that London, while representing herself and Vanessa, made errors in her prosecution of this appeal, argues that these errors were not so egregious as to merit sanctions, and the appeal was not taken for an improper motive.

Under Code of Civil Procedure section 907, "'When it appears to the reviewing court that the appeal was frivolous or taken solely for delay, it may add to the costs on appeal such damages as may be just.' [Citation.] Our Supreme Court in *In re Marriage of Flaherty*[(1982)] 31 Cal.3d 637 [at page 650], set forth the applicable standard: 'an appeal should be held to be frivolous only when it is prosecuted for an improper motive—to harass the respondent or delay the effect of an adverse judgment—or when it indisputably has no merit—when any reasonable attorney would agree that the appeal is totally and completely without merit. [Citation.]' [Citation.]" (*Pollock v. University of Southern California* (2003) 112 Cal.App.4th 1416, 1431-1432.) "'The first standard is tested subjectively. The focus is on the good faith of appellant and counsel. The second is tested objectively. [Citation.] "While each of the above standards provides *independent* authority for a sanctions award, in practice

the two standards usually are used together 'with one providing evidence of the other. Thus, the total lack of merit of an appeal is viewed as evidence that appellant must have intended it only for delay.' [Citations.]" [Citation.]'" (*Personal Court Reporters, Inc. v. Rand* (2012) 205 Cal.App.4th 182, 191, quoting *In re Marriage of Gong & Kwong* (2008) 163 Cal.App.4th 510, 516.) Sanctions may be awarded if all or part of an appeal is frivolous. (*Pollack*, *supra*, at p. 1432; *People ex rel. Dept. of Transportation v. Outdoor Media Group* (1993) 13 Cal.App.4th 1067, 1080.)

Sanctions for frivolous appeal should be imposed "most sparingly to deter only the most egregious conduct." (*In re Marriage of Flaherty*, *supra*, 31 Cal.3d at p. 651; *In re Marriage of Gong and Kwong*, *supra*, 163 Cal.App.4th at p. 518.) "However, any definition must be read so as to avoid a serious chilling effect on the assertion of litigants' rights on appeal. Counsel and their clients have a right to present issues that are arguably correct, even if it is extremely unlikely that they will win on appeal. An appeal that is simply without merit is *not* by definition frivolous and should not incur sanctions." (*In re Marriage of Flaherty*, *supra*, at p. 650; accord, *In re E.M.* (2014) 228 Cal.App.4th 828, 853.)

Here, we have no reason to believe that London's violation of court rules was intentional or that she filed this appeal for an improper motive: harassment or delay. That the appeal is simply without merit is not sufficient to deem it frivolous and impose sanctions. (*Freeman v. Sullivant* (2011) 192 Cal.App.4th 523, 530.) Accordingly, we decline the request that we impose sanctions for frivolous appeal.

DISPOSITION

The judgment is affirmed. The District and Aquino shall recover their costs on appeal.

GOODMAN, J.*

We concur:

RUBIN, Acting P. J.

GRIMES, J.

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* Retired judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.