SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

Rene C. Davidson Courthouse

Colin Scholl et al Plaintiff/Petitioner(s) vs. California Department of Corrections and Rehabilitation Defendant/Respondent (s)	No. 24CV091030 Date: 04/01/2026 Time: 1:56 PM Dept: 21 Judge: Brad Seligman ORDER Re: Demurrer and Motions to Strike Amended Complaint

I. INTRODUCTION

This is a putative class action brought by four former California state prisoners against the California Department of Corrections and Rehabilitation ("CDCR") challenging CDCR's longstanding practice of deducting transportation and release-clothing costs from the $200 in gate money that Penal Code section 2713.1 requires it to pay each released prisoner upon discharge. Plaintiffs allege the deduction practice was unlawful from its inception in 1994 and seek both retroactive monetary relief and prospective declaratory and injunctive relief. (First Amended Complaint ("FAC") ¶¶ 1-5, 29-31.)

The Honorable Michael Markman previously sustained CDCR's demurrer to the original complaint with leave to amend. (May 30, 2025, Order ("May 30 Order") at 1.) The May 30 Order held: (1) retroactive monetary claims must be pursued through conversion or a similar damages theory and are subject to the Government Claims Act ("GCA"), not mandate; (2) prospective claims may proceed via writ of mandate or declaratory relief without GCA compliance; (3) administrative exhaustion was futile and need not be replead; and (4) class allegations need not be stricken at the pleading stage, but the Court invited Plaintiffs to amend to plead the discovery rule, equitable estoppel, or fraudulent concealment on a classwide basis by name. (May 30 Order at 2-6.) Plaintiffs filed the First Amended Complaint on August 12, 2025, asserting five causes of action: (1) writ of mandate; (2-3) declaratory relief; (4) conversion; and (5) unjust enrichment. (Demurrer to FAC at 9.)

Before the Court are CDCR's Demurrer to the FAC and CDCR's Motion to Strike the First Cause of Action and class allegations. For the reasons stated below, the Court the demurrer is DENIED as to the First, Second and Third Causes of Action. As to the Fourth Cause of Action, the demurrer is GRANTED as to plaintiff Cho without leave to amend, denied with leave to amend for plaintiffs Scholl and Vaesau and Overruled as to plaintiff Anderson. The demurrer is SUSTAINED as to the Fifth Cause of Action as to all plaintiffs. The motion to strike the First Cause of Action and the motion to strike the class allegations are DENIED.

II. FACUAL BACKGROUND

A. The Statute

Penal Code section 2713.1 provides that "each prisoner upon his release shall be paid the sum of two hundred dollars." The statute further provides that payment shall come "from such appropriations that may be made available for the purposes of this section" and authorizes CDCR

to prescribe rules and regulations "(a) to limit or eliminate any payments provided for in this section to prisoners who have not served for at least six consecutive months prior to their release in instances where the department determines that such a payment is not necessary for rehabilitation of the prisoner, (b) to establish procedures for the payment of the sum of two hundred dollars ($200) within the first 60 days of a prisoner's release, and (c) to eliminate any payment provided for in this section to a parolee who upon release has not been paid the entire amount prescribed by this section and who absconds after release on parole, but before the remaining balance of the two hundred dollar ($200) release funds have been paid." No payment is required under this statute if “the prisoner is released to the custody of another state or to the custody of the federal government.” The statute identifies only three express grounds for disentitlement: serving fewer than six consecutive months, absconding before payment and release to further custody.

B. The Regulation and Its History

Since July 27, 1994, CDCR operated under California Code of Regulations, Title 15, section 3075.2(d), which authorized deduction of transportation and release-clothing costs from the $200 gate money payment. (May 30 Order at 1; Demurrer to FAC at 9.) This deduction practice was publicly known and reflected in official forms provided to prisoners at the time of their release. (FAC ¶¶ 36-39.)

In September 2024, the Legislature passed Assembly Bill 157, which appropriated $1.8 million for release transportation and clothing and prohibited CDCR from deducting those costs (“The Department shall not deduct money from the funds provided to incarcerated persons upon their release pursuant to section 2713.1 of the Penal Code, except for the reasons described in that section.”) The prohibition expired at the close of the 2024-2025 fiscal year. (Demurrer to FAC at 16-19.) On June 17, 2025, after this action was filed, CDCR completed the regulatory process removing the deduction provisions from section 3075.2(d), effective October 1, 2025. (Demurrer to FAC at 19-20.)

C. The Named Plaintiffs

Plaintiff Colin Scholl was released on July 22, 2021. (FAC ¶ 11.) Plaintiff John Vaesau was released on September 5, 2023. (FAC ¶¶ 14-15.) Plaintiff Dwight Anderson was released on September 3, 2024. (FAC ¶¶ 17-18.) Plaintiff James Cho was also released but no Government Claims Act claim was submitted on his behalf. (Demurrer to FAC at 13 & n.5, citing FAC ¶¶ 20, 22.) Plaintiffs purport to represent a class of all current and former California prisoners released on or after July 27, 1994 who had transportation or release-clothing costs deducted from their gate money. (FAC ¶¶ 24-28.)

Plaintiffs filed the FAC on August 12, 2025. (Demurrer to FAC at 9.) Regarding GCA compliance, the FAC alleges that Plaintiffs submitted a claim to the Department of General Services on June 16, 2025, and that it was "deemed rejected by operation of law by Defendant's failure to respond within 45 days." (FAC ¶ 23; Demurrer to FAC at 13-14.)

III. DISCUSSION

A demurrer tests the legal sufficiency of the complaint. (Blank v. Kirwan, 39 Cal.3d 311, 318 (1985).) The Court assumes the truth of all well-pleaded factual allegations and gives the complaint a reasonable interpretation. (Id.) A demurrer will be sustained where the complaint fails to state facts sufficient to constitute a cause of action. (Code Civ. Proc., § 430.10, subd. (e).) Leave to amend is liberally granted where there is a reasonable possibility the defect can be cured. (Schifando v. City of Los Angeles, 31 Cal.4th 1074, 1081 (2003).)

A motion to strike may target any pleading "not drawn or filed in conformity with the laws of this state, a court rule, or an order of the court." (Code Civ. Proc., § 436, subd. (b).) Striking

class allegations at the pleading stage is disfavored and appropriate only where the defect is apparent on the face of the complaint. (Tellez v. Rich Voss Trucking, Inc., 240 Cal.App.4th 1052, 1062 (2015).)

A. Demurrer to the First Amended Complaint

Defendants challenge all causes of action on various theories. The court discusses them in turn.

B. Lawfulness of the Deduction Practice – All Causes of Action

CDCR argues its deduction practice was lawful as a matter of law, providing an independent ground to dismiss all causes of action. (Demurrer to FAC at 15-19.) CDCR advances three theories: (a) legislative acquiescence in the 30-year public practice; (b) Sabatasso v. Superior Court is distinguishable because Penal Code section 2713.1 is silent on deductions; and (c) the statute's appropriations language implicitly authorized deductions absent a specific appropriation. (Demurrer to FAC at 15-19.)

1. Governing Law

Administrative regulations must be consistent with the enabling statute and are invalid to the extent they alter or amend the statute or enlarge its scope." (See, e.g., Dyna-Med, Inc. v. Fair Employment & Housing Com. (1987) 43 Cal.3d 1379, 1389; Morris v. Williams (1967) 67 Cal.2d 733, 748.) Courts exercise independent judgment on questions of statutory construction. (Yamaha Corp. of America v. State Bd. of Equalization, 19 Cal.4th 1, 7 (1998).) Legislative acquiescence may be relevant where the Legislature has been aware of an administrative practice for an extended period without corrective action. (In re Marriage of Bouquet, 16 Cal.3d 583, 592 (1976).)

2. Analysis

CDCR's merits arguments present genuine competing interpretations of Penal Code section 2713.1 that are not resolvable on demurrer. The FAC states a plausible claim that the deduction regulation exceeded statutory authority. (FAC ¶ 30.) The Court addresses each theory in turn.

a. Legislative Acquiescence

Section 3075.2(d) has been in place since 1994 - more than 30 years. In 2007, the Legislature enacted Penal Code section 2713.2, directing CDCR to study whether the "existing law related to payments to inmates released from prison are hindering the success of parolees and resulting in their rapid return to prison for parole violations. The report shall specifically examine whether the costs of transportation of the inmate from prison to the parole location should be paid from the amount specified in section 2713.2 or whether it should be paid separately by the department." This provision shows Legislative awareness, if not acquiescence, of the CDCR policy. However, this argument is insufficient to sustain the demurrer. Assembly Bill 157's temporary prohibition on deductions is susceptible to competing readings. CDCR reads it as confirmation that deductions are permissible absent a specific appropriation. (Demurrer to FAC at 16-18.) Plaintiffs can equally argue that the Legislature's decision to prohibit deductions - even temporarily - reflects a legislative understanding that the deductions were impermissible and required a fix. "Arguments based on supposed legislative acquiescence rarely do much to persuade. (See, e.g., People v. Brown (2012) 54 Cal.4th 314, 327–328, 142 Cal.Rptr.3d 824, 278 P.3d 1182.) Regardless, while "it may sometimes be true that legislative inaction signals acquiescence when there exists both a well-developed body of law interpreting a statutory provision and numerous amendments to a statute without altering the interpreted provision, that is not the case here." (Scher v. Burke (2017) 3 Cal.5th 136, 147, as modified on denial of reh'g (Aug. 9, 2017).)

b. Sabatasso Distinguishability

CDCR argues that Sabatasso v. Superior Court (2008) 167 Cal.App.4th 791, 795 was wrongly decided or distinguishable. This lower court is bound by that decision, in the absence of conflicting authority. In Sabatasso, the court involved a CDCR regulation that categorically disentitled a class of prisoners from gate money entirely, in direct conflict with the statute's enumerated exceptions. Sabatasso, supra, 167 Cal.App.4th at 798–800. CDCR contends the present case is meaningfully different because Penal Code section 2713.1 is silent on the question of deductions from the $200 amount, and because Penal Code section 2713.2's study directive implicitly acknowledged the deduction practice. (Demurrer to FAC at 16-17.) Plaintiffs respond that any reduction below the $200 statutory floor is functionally equivalent to partial disentitlement, and that the statute's unambiguous mandate to pay "the sum of two hundred dollars" admits of no regulatory reduction. (FAC ¶ 30.) This dispute turns on a developed legislative history and competing textual interpretations not amenable to resolution on demurrer. The demurrer on Sabatasso grounds is overruled.

c. Appropriations Language

CDCR final merits argument is its reading of the statute's appropriations clause. CDCR contends that the phrase "from such appropriations that may be made available" conditions the $200 payment on a specific appropriation and permits deductions when CDCR has not obtained a separate appropriation for transportation and clothing costs. (Demurrer to FAC at 18-19.) This reading would allow CDCR to reduce the gate money payment whenever it chose not to seek a separate appropriation - rendering the $200 guarantee illusory with the statute's plain directive that "each prisoner upon his release shall be paid the sum of two hundred dollars." (Pen. Code, § 2713.1.) The appropriations language, read in context, most plausibly addresses the funding mechanism rather than a condition that could reduce the statutory amount. This argument does not warrant dismissal at the pleading stage.

The demurrer on merits grounds is OVERRULED as to all surviving causes of action.

C. Failure of Comply with GCA

CDCR argues that the First (writ of mandate), Fourth (conversion), and Fifth (unjust enrichment) Causes of Action must be dismissed for failure to timely comply with the Government Claims Act. (Demurrer to FAC at 11-15.) CDCR characterizes the retroactive claims as tort-based, triggering the six-month claim-presentation deadline under Government Code section 911.2. (Demurrer to FAC at 12-13.) Plaintiffs argue that the GCA does not apply to their writ claims under the First Cause of Action and further contend their Fourth and Fifth Causes of Action arise from a statutory entitlement rather than a personal injury tort, placing them within the one-year deadline applicable to "any other cause of action." (FAC ¶¶ 74, 81.)

The Judge Markman’s May 30 Order held that Plaintiffs' retroactive monetary claims are subject to the GCA. (May 30 Order at 4.) The court focused on whether the primary purpose of the claim was monetary relief and whether there were “plain, speedy and adequate remedy in the ordinary course of law.” The court specifically cited Canova v. Trustees of Imperial Irrigation Dist. Employee Pension Plan (2007) 159 Cal.App.4th 1487, 1493 and Wenzler v. Municipal Court of Pasadena Judicial District (1965) 235 Cal.App.2d 128, 133. Neither case involved a writ of mandate claim to enforce a statutory duty. Wenzler described the action as quasi-contractual and distinguished the case from those where relief turned on the proper construction of a statute. Canova likewise involved claims for breach of contract. (Id. p.1492.) It recognized that mandamus is appropriate (and not subject to the Government Claims Act), where it seeks to compel performance of a mandatory statutory duty. It specifically cited County of Sacramento v.

Lackner (1979) 97 Cal;.App.3d 576, 587-588 and Forde v. Cory (1977) 66 Cal.App.3d 434, 436-438 to this effect. (Id. p. 1493.) The California Supreme Court has also confirmed that mandate is appropriate where the issue turns on a "proper construction of a statute giving rise to the official duty…." (Coan v State of California (1976 11 Cal.3d 286, 291.)

Plaintiffs' amended complaint revised the mandate allegations to emphasize prospective compliance and to characterize any monetary consequence as incidental. The FAC explicitly frames the writ, now styled as the First Cause of Action, as compelling statutory compliance rather than awarding damages, disclaims any court calculation of sums owed, and characterizes any monetary consequences as incidental to the compliance order. (FAC ¶¶ 48-55.) Plaintiffs rely on County of Sacramento v. Lackner (1979) 97 Cal.App.3d 576 for the proposition that mandamus is not transformed into an action for money merely because compliance results in the release of funds.

The court has accordingly reconsidered the initial holding in the May 30 order in light of the new allegations and the above discussion of the case law and overrules the demurrer to the First Cause of Action based on failure to comply with the GSA as well as the motion to strike the First Cause of Action.

The Fourth and Fifth Causes of Action seek damages and accordingly are subject to the GSA. The Government Claims Act (Gov. Code, §§ 810 et seq.) requires timely presentation of a claim against a public entity as a prerequisite to suit. (City of San Jose v. Superior Court, 12 Cal.3d 447, 454 (1974).) Failure to timely present a claim bars the action. (Gov. Code, § 945.4.) Government Code section 911.2 establishes two claim-presentation periods: (a) six months for claims for "death or for injury to person or to personal property or growing crops," and (b) one year for "any other cause of action." Accrual is governed by the same rules applicable to the underlying cause of action. (Munoz v. State of California, 33 Cal.App.4th 1767, 1776 (1995).) Where a claimant misses the applicable deadline, the claimant may apply for leave to file a late claim within one year of accrual under Government Code section 911.4. If the public entity fails to act within 45 days, the application is constructively denied. (Gov. Code, § 911.6, subd, (c).) A claimant whose late-claim application is denied must then petition the superior court for relief under Government Code section 946.6 before filing suit - a mandatory statutory prerequisite to suit. (Munoz, supra, 33 Cal.App.4th at 1779.) The GCA's claim presentation requirements are statutory conditions precedent to suit and are not subject to a futility exception. (City of San Jose, 12 Cal.3d at 455; May 30 Order at 4.)

1. Analysis

. The Court proceeds to apply the GCA's requirements to each plaintiff and to resolve the subsidiary disputes between the parties.

Plaintiffs argue that their June 16, 2025 claim renders their claims timely, if the GCA applies at all. At the hearing in this matter plaintiffs argued that the discovery rule also applies and renders facially untimely claims timely.

The threshold question is whether the six-month or one-year GCA deadline governs. Government Code section 911.2 reserves the six-month period for claims for "death or for injury to person or to personal property or growing crops." All other causes of action are subject to the one-year period. CDCR characterizes the conversion claim as a tort claim for injury to personal property, triggering the six-month deadline. (Demurrer to FAC at 12-13.) Plaintiffs respond that the claims arise from a statutory entitlement to $200 in gate money and fall within the one-year period. (FAC ¶¶ 74, 81.)

The Court agrees with Plaintiffs. While conversion sounds in tort, the six-month GCA period is cabined to claims involving death or injury to persons or personal property. Plaintiffs do not

allege physical injury or death. The money withheld pursuant to an allegedly invalid regulation is a statutory entitlement under Penal Code section 2713.1 - not property wrongfully seized in the traditional personal-property-tort sense. At its core, this claim is one for statutory violation and the unlawful withholding of a legislative benefit, placing it within the one-year period for "any other cause of action" under Government Code section 911.2. This determination is material because it renders Plaintiff Anderson's June 16, 2025 submission potentially timely.

a. Plaintiff-by-Plaintiff GCA Analysis

Penal Code section 2713.1 requires CDCR to pay “the sum of two hundred dollars” upon release and authorizes CDCR to establish procedures for payment “within the first 60 days of a prisoner’s release.” A claim challenging an alleged underpayment therefore accrues no later than the expiration of that 60-day payment window. (Pen. Code, § 2713.1.) Applying that accrual date and the one-year GCA deadline:

• Plaintiff Scholl was released July 22, 2021. His claim accrued approximately September 20, 2021. His one-year GCA deadline was September 20, 2022. The June 16, 2025 filing falls more than two and a half years after that deadline. (Demurrer to FAC at 13.) Scholl's retroactive claims are untimely under any standard.

• Plaintiff Vaesau was released September 5, 2023. His claim accrued approximately November 4, 2023. His one-year deadline was November 4, 2024. The June 16, 2025 filing falls after that deadline. (Demurrer to FAC at 13.) Vaesau's retroactive claims are untimely under either standard.

• Plaintiff Anderson was released September 3, 2024. His claim accrued approximately November 2, 2024. His one-year deadline is November 2, 2025. The June 16, 2025 filing falls before that deadline. (Demurrer to FAC at 13.) Anderson's claim is timely if the one-year period governs and the June 16 filing constitutes a proper claim presentation.

• Plaintiff Cho submitted no GCA claim at all. (Demurrer to FAC at 13 n.5.) Cho's retroactive claims must be dismissed regardless of which deadline applies.

b. Character of the June 16, 2025, Filing

CDCR contends the June 16 submission was not a timely GCA claim but rather an application for leave to file a late claim under Government Code section 911.4, evidenced by the document's inclusion of a "Late Claim Explanation" and arguments tracking the late-claim standard under Government Code section 911.6. (Demurrer to FAC at 14, citing Req. for Judicial Not., Ex. 1.) If CDCR is correct, the application was constructively denied when DGS did not act within 45 days, and Plaintiffs were required to petition this Court for relief under Government Code section 946.6 before filing suit - a step they did not take. (Demurrer to FAC at 14-15.) Plaintiffs allege the June 16 submission was a timely claim under section 911.2, not a late-claim application. (FAC ¶ 23.) For Scholl, Vaesau, and Cho, this dispute does not affect the outcome. For Anderson, whose claim is facially timely under the one-year standard, the Court must examine Exhibit 1 to CDCR's Request for Judicial Notice to determine the character of that submission. If the submission was a timely claim under section 911.2, Anderson's retroactive causes of action may proceed. If it was a late-claim application, Anderson's claims face dismissal absent a petition for relief under Government Code section 946.6.

Defendant argues the June 16, 2025 filing should be characterized as a late claim application. It relies on the fact that plaintiffs filled out a block entitled “Late claim explanation (Required if incident was more than six months ago).” Plaintiffs’ response is “SEE ATTACHED” which incorporated a 7- page document. Defendant points to the last two pages of this attachment where plaintiffs argue that any delay in filing the claim was due to mistake, inadvertence, surprise or excusable neglect.

The court rejects defendant's reading of the June 16 document. On its face, the cover sheet states it is a "Government Claim." The Late claim explanation section was required to be filled out if the claim was more than 6 months old. Filling it out does not change the nature of the claim. The attachment describes in detail the claim being made. The fact that a small portion of the attachment suggested any delay was excusable, does not transform the document into a late claim. Plaintiffs do not cite the late filing provision (Government Code section 911.4) nor did they request leave to file a late claim.

The court thus finds at least one plaintiff has met the claim filing requirement. The June 16 claim was made individually and on behalf of the class. Whether a class will be certified, and if so what its scope will be are issues for another day. If a class is certified, as the previous order acknowledged, plaintiffs may assert a claim under the GCA on behalf of the class. (City of San Jose v. Superior Court (1974) 12 Cal. 3d 447, 457.)

c. Discovery Rule and Equitable estoppel

Plaintiffs nevertheless argue that the arguably untimely filed claims are timely under the discovery rule or via equitable estoppel. After argument, the court granted the parties leave to address the applicability of the discovery rule, although the order did not address equitable estoppel. In any event, the court finds that the current complaint fails to adequately allege either theory for plaintiffs and grants demurrer with leave to amend as to all plaintiffs other than Anderson, with the exception of Cho who never filed a claim and for whom it is simply too late to assert either theory.

The amended complaint fails to plead the date and manner of discovery. While plaintiffs' brief asserts the discovery was the result of information from counsel in August 2024, the amended complaint in fact does not so allege—rather it asserts plaintiffs did not realize they needed to file a claim when Judge Markman issued his May 30, 2025 ruling. Judge Markman's ruling is not a basis for delayed discovery, as it turns on a legal theory, not on delayed discovery of facts. (Love v. Fire Ins. Exchange (1990) 221 Cal.App. 3d 1136,1143.) Moreover, plaintiff does not allege what facts they were delayed from discovering.

D. Mootness – Second and Third Causes of Action

CDCR argues that its withdrawal of the deduction regulation, effective October 1, 2025, renders the Second and Third Causes of Action for prospective declaratory relief moot. (Demurrer to FAC at 19-20.) Plaintiffs argue the prospective claims are not moot because CDCR retains full regulatory authority, Assembly Bill 157's prohibition has expired, and CDCR has a 30-year institutional history of enforcing the challenged policy. (FAC ¶¶ 31, 60-61.)

1. Governing Law

A case becomes moot when the court's ruling can have no practical impact on the controversy. (Wilson & Wilson v. City Council of Redwood City, 191 Cal.App.4th 1559, 1574 (2011).) Under the voluntary cessation doctrine, a defendant's unilateral cessation of challenged conduct does not automatically moot a case where the defendant retains authority to resume the practice. (Friends of the Earth, Inc. v. Laidlaw Environmental Services (TOC), Inc., 528 U.S. 167, 189 (2000).) The defendant bears the "formidable burden" of demonstrating it is "absolutely clear the allegedly wrongful behavior could not reasonably be expected to recur." (Id.)

2. Analysis

The voluntary cessation doctrine does not mandate a finding of mootness on this record. A defendant's cessation of challenged conduct moots a claim only if it is absolutely clear the conduct cannot reasonably be expected to recur. (Friends of the Earth, supra, 528 U.S. at 189.) Here, CDCR removed the deduction provisions through a regulatory change adopted pursuant to Penal Code section 5058. (FAC ¶ 31.) CDCR retains authority to amend its regulations.

Assembly Bill 157 imposed a temporary statutory prohibition on deductions, but that prohibition has expired. (Demurrer to FAC at 16–19.) The FAC further alleges that CDCR enforced the deduction practice for more than 30 years. (May 30 Order at 1; Demurrer to FAC at 9.)
Unlike the case defendant cites, Lee v. Davis (1983) 141 Cal.App.3d 989,993, the likelihood of future unlawful conduct was rendered implausible given the clear unconstitutional nature of the local ordinance. Here, defendant steadfastly defends its interpretation of the statute and has not conceded error. (Cook v. Craig (1976) 55 Cal.App.3d 773, 780.)
On this record, CDCR has not demonstrated that reinstatement of the challenged practice cannot reasonably be expected to occur. The burden rests with CDCR, not Plaintiffs. (Friends of the Earth, supra, 528 U.S. at 189.)
The demurrer to the Second and Third Causes of Action is OVERRULED.
E. Unjust Enrichment – Fifth Cause of Action
CDCR argues California does not recognize unjust enrichment as an independent cause of action where the asserted right arises purely from statute rather than from contract or quasi-contract. (Demurrer to FAC at 21.)
1. Governing Law
California courts have consistently held that unjust enrichment is not an independent cause of action; rather, it is a basis for restitution grounded in quasi-contract or another recognized legal theory. (McBride v. Boughton, 123 Cal.App.4th 379, 387 (2004); McKell v. Washington Mutual, Inc., 142 Cal.App.4th 1457, 1490 (2006).) Where a plaintiff's rights arise purely from a statutory mandate and no contractual or quasi-contractual relationship exists between the parties, an unjust enrichment theory does not state a cognizable cause of action. (See Gregory v. State, 32 Cal.2d 700, 703 (1948).)
2. Analysis
The Fifth Cause of Action does not allege facts establishing a quasi-contractual or implied-in-law obligation independent of the statutory duty imposed by Penal Code section 2713.1. Plaintiffs' asserted entitlement to gate money arises solely from that statute, and the FAC identifies no separate equitable basis for restitution distinct from the alleged statutory violation. In the absence of an independent restitutionary theory, the unjust enrichment claim merely restates the statutory cause of action and does not provide a distinct ground for relief. Moreover, CDCR's obligations to released prisoners are defined by statute and regulation, not by contract, and public entity liability must be grounded in statute. (Gov. Code, § 815.) There does not appear to be a recognized unjust enrichment theory available on these facts. (McBride, supra, 123 Cal.App.4th at 387; Gregory, supra, 32 Cal.2d at 703.)
The demurrer as to the Fifth Cause of Action is SUSTAINED.
F. Motion to Strike the Class Allegations
CDCR moves to strike the class allegations on the ground that Plaintiffs have failed to adequately plead classwide tolling of the statute of limitations. (Mot. to Strike at 11-17.) CDCR contends that class members released more than three years and 60 days before September 11, 2024 have facially untimely claims, and that the FAC does not plead equitable estoppel, fraudulent concealment, or the discovery rule by name, as the May 30 Order invited. (Mot. to Strike at 15; May 30 Order at 5.)
1. Governing Law
Under Code of Civil Procedure section 338, a three-year limitations period applies to claims for statutory violations. A claim accrues when the plaintiff "discovers, or has reason to discover, the cause of action." (Fox v. Ethicon Endo-Surgery, Inc., 35 Cal.4th 797, 807 (2005).) California recognizes three relevant tolling doctrines: (1) the discovery rule, which delays accrual until the

plaintiff knew or should have known of the injury and its cause; (2) equitable estoppel, which requires a showing that the defendant engaged in affirmative conduct or representations inducing the plaintiff to forego timely suit, and that reliance was reasonable; and (3) fraudulent concealment, which requires affirmative acts by the defendant concealing the cause of action from the plaintiff. (Bernson v. Browning-Ferris Industries, 7 Cal.4th 926, 931 (1994).)

a. Baseline Statute of Limitations

CDCR's baseline statute of limitations analysis is doctrinally sound. Claims accrued 60 days after each plaintiff's release under Code of Civil Procedure section 338. (Demurrer to FAC at 12, citing Niles, supra, 53 Cal.App.2d at 651.) The proposed class includes persons released as far back as July 27, 1994 - more than 30 years before the filing of this action. (Mot. to Strike at 12.) Absent tolling, the vast majority of class members have facially untimely claims. The Court notes that CDCR's briefing does not address whether a distinct accrual analysis might apply to the declaratory relief claims or whether a continuing violation theory has any application here.

b. Whether Plaintiffs Have Adequately Pled Tolling

CDCR is correct that the FAC does not invoke "discovery rule," "equitable estoppel," or "fraudulent concealment" by name, despite the May 30 Order's express invitation to do so. (Mot. to Strike at 15; May 30 Order at 5.) However, California's notice-pleading standard does not require tolling to be pleaded by label if the facts alleged support the doctrine. (Bastian v. County of San Luis Obispo (1988) 199 Cal.App.3d 520, 527.) FAC paragraphs 36 through 41 allege that CDCR "systematically misrepresent[ed] the lawfulness of its conduct" through official regulations and standardized release forms, giving the deduction practice an "imprimatur of legal validity" and a "comprehensive veneer of legality," and that the circumstances of incarceration and release limited class members' practical ability to investigate potential claims. (FAC ¶¶ 36-39.) These are factual allegations directed at the elements of delayed discovery, equitable estoppel and fraudulent concealment. The question is whether those allegations satisfy the doctrinal requirements - not whether the doctrines are entirely absent from the pleading.

c. CDCR’S Specific Tolling Arguments

CDCR advances three arguments against the adequacy of Plaintiffs' tolling allegations. (Mot. to Strike at 13-17.) The Court addresses each in turn.

First, CDCR argues it could not have misled class members about the "unlawfulness" of a practice whose legality had never been adjudicated. (Mot. to Strike at 13-14.) This argument fails. Equitable estoppel and fraudulent concealment do not require the defendant to have represented that its own conduct was unlawful. The relevant alleged misrepresentation is not "we are breaking the law" but rather "you have received the full $200 lawfully owed to you." That is an affirmative representation about the completeness of the statutory payment reflected in official release forms - not an admission of wrongdoing. Tolling doctrines are designed precisely for cases where the underlying legal question was resolved only later. (Bernson, supra, 7 Cal.4th at 931.)

Second, CDCR argues that promulgating and enforcing a public regulation does not constitute an affirmative representation sufficient to invoke equitable estoppel, citing Alameda County Deputy Sheriff's Assn., 9 Cal.5th at 1073. (Mot. to Strike at 14.) Whether the official release forms that described the deducted amount and characterize the remaining balance as the full statutory payment rises to that level is a fact-intensive question not appropriate for resolution on the face of the pleading alone.

Third, CDCR relies on the "fundamental right" discussion in Driscoll, 67 Cal.2d at 308, to argue that equitable estoppel is categorically unavailable because gate money is not a fundamental right. (Mot. to Strike at 16-17.) This overstates Driscoll. That decision identified the nature of the

right as one factor in the unconscionability analysis - not as a threshold bar to estoppel for non-fundamental rights. Treating this factor as independently dispositive is not a correct reading of the case.

d. Temporal Scope and Post-Sabatasso Period

The proposed class extends to July 27, 1994 - a period of more than 30 years. Sabatasso was decided in 2008. Whether a classwide tolling theory can coherently span the pre- and post-Sabatasso periods - and what effect, if any, the 2008 decision had on class members' inquiry notice - will be significant questions at class certification regardless of the outcome here. (FAC ¶¶ 36-41.) The Court flags this issue for the parties' attention in anticipation of class certification briefing.

e. Procedural Posture and Ruling

Striking class allegations at the pleading stage is disfavored. (Tellez, supra, 240 Cal.App.4th at 1062.) This Court declined to strike the class allegations once and invited Plaintiffs to plead tolling. (May 30 Order at 5.) Plaintiffs have now pled facts directed at the elements of the delayed discovery, equitable estoppel and fraudulent concealment. (FAC ¶¶ 36-41.) Whether those allegations are ultimately sufficient - particularly on the affirmative representation element - is a fact-intensive inquiry better addressed at class certification on a developed evidentiary record. The motion to strike the class allegations is DENIED without prejudice to CDCR renewing its arguments at class certification.

IV. ORDER

Based on the foregoing, the Court ORDERS as follows:

Demurrer to the First Amended Complaint

First Cause of Action (Writ of Mandate). The demurrer is OVERRULED.

Second and Third Causes of Action (Declaratory Relief – Prospective). The demurrer is OVERRULED. CDCR has not carried its burden to show the prospective claims are moot under the voluntary cessation doctrine.

Fourth Cause of Action (Conversion). The demurrer is SUSTAINED as to Plaintiffs Scholl, Vaesau, and Cho on GCA grounds, with leave to amend as to plaintiffs Scholl and Vaesau. As to Plaintiff Anderson the demurrer is OVERRULED.

Fifth Cause of Action (Unjust Enrichment). The demurrer is SUSTAINED as to all plaintiffs.

Motion to Strike

First Cause of Action (Writ of Mandate). The motion to strike is DENIED

Class Allegations. The motion to strike the class allegations is DENIED. The adequacy of Plaintiffs' classwide tolling theory presents fact-intensive questions better addressed at class certification on a developed evidentiary record. CDCR may renew its tolling arguments at that stage.

Dated : 04/01/2026

Brad Seligman / Judge

SUPERIOR COURT OF CALIFORNIA COUNTY OF ALAMEDA	Reserved for Clerk's File Stamp **FILED** Superior Court of California County of Alameda 04/01/2026 Chad Finke, Executive Officer / Clerk of the Court By: Juanita Moore Deputy J. Moore
COURTHOUSE ADDRESS: Rene C. Davidson Courthouse 1225 Fallon Street, Oakland, CA 94612	
PLAINTIFF/PETITIONER: Colin Scholl et al	
DEFENDANT/RESPONDENT: California Department of Corrections and Rehabilitation	
CERTIFICATE OF ELECTRONIC SERVICE CODE OF CIVIL PROCEDURE 1010.6	CASE NUMBER: 24CV091030

I, the below named Executive Officer/Clerk of Court of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that on this date I served one copy of the General Order (Court Order Re: Demurrer and Motions to Strike Amended Complaint) entered herein upon each party or counsel of record in the above entitled action, by electronically serving the document(s) from my place of business, in accordance with standard court practices.

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Chad Finke, Executive Officer / Clerk of the Court

Dated: 04/01/2026

By: Juanita Moore

J. Moore, Deputy Clerk

CERTIFICATE OF ELECTRONIC SERVICE
CODE OF CIVIL PROCEDURE 1010.6