

1 BRYAN SCHWARTZ LAW
2 BRYAN SCHWARTZ (SBN 209903)
3 YI-FAN (YVONNE) C. EVERETT (SBN 301815)
4 1330 Broadway, Suite 1630
5 Oakland, California 94612
6 Tel. (510) 444-9300
7 Fax (510) 444-9301
8 Email: bryan@bryanschwarzlaw.com
9 Email: yvonne@bryanschwarzlaw.com

7 LAWRENCE A. ORGAN (SBN 175503)
8 JULIANNE K. SCHWARTZ (SBN 290001)
9 CALIFORNIA CIVIL RIGHTS LAW GROUP
10 407 San Anselmo Ave., Suite 201
11 San Anselmo, California 94960
12 Tel. (415) 453-4740
13 Fax (415) 785-7352
14 Email: Larry@CivilRightsCA.com
15 Email: Julianne@CivilRightsCA.com

16 *Attorneys for Plaintiff Aaron Nevatt*

17 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
18 **IN AND FOR THE COUNTY OF SAN FRANCISCO**

19 AARON NEVATT, on behalf of himself
20 and the general public,

21 Plaintiff,

22 vs.

23 THE BOARD OF TRUSTEES OF
24 CALIFORNIA STATE UNIVERSITY,
25 SAN FRANCISCO STATE
26 UNIVERSITY, and DOES 1 through 50
27 inclusive,

28 Defendants.

CASE NO.: CGC-15-543905

HK

~~PROPOSED~~ ORDER DENYING
DEFENDANT'S MOTION FOR SUMMARY
JUDGMENT OR IN THE ALTERNATIVE,
SUMMARY ADJUDICATION

Date: April 29, 2016

Time: 9:30 AM

Dept: 302

Currently Scheduled Trial: June 13, 2016

Currently Scheduled SJ Motion Hearing:

April 29, 2016

ENDORSED
FILED
Superior Court of California
County of San Francisco

APR 29 2016

CLERK OF THE COURT

BY: JOSE RIOS MERIDA
Deputy Clerk

1 Defendant's Motion for Summary Judgment or in the Alternative, Summary Adjudication
2 pursuant to Code of Civil Procedure Section 437c, came on for hearing on April 29, 2016 at 9:30
3 a.m. in Department 302 of the above-entitled Court.

4 The Court, having considered the moving and opposition papers and the argument of
5 counsel, finds there are triable issues of material fact as to all of Plaintiff's causes of action, under
6 Labor Code §§ 98.6, 1102.5, 2698 *et seq.*, 6310, Government Code §8547 *et seq.*, and for
7 injunctive relief.. The Court therefore DENIES Defendant Board of Trustees' Motion for
8 Summary Judgment or in the Alternative, Summary Adjudication, in its entirety.

9 Defendant Board of Trustees of California State University (the Board) has not satisfied
10 its burden of production showing that plaintiff Aaron Nevatt cannot prove protected activity as to
11 any of his six claims and, even if it did, Plaintiff Nevatt presented admissible evidence creating a
12 triable issue whether he engaged in protected activity as to all of his claims other than his second
13 cause of action. Paragraphs 15 and 20 of the first amended complaint which are incorporated into
14 all of Mr. Nevatt's claims allege that in November 2013 Mr. Nevatt disclosed to Mr. Martin his
15 belief that the lack of an operations and maintenance program violated state and federal laws and
16 on January 10, 2014 Mr. Nevatt disclosed to President Wong his belief that the science building
17 should be closed due to violations of safety regulations. These allegations are sufficient to support
18 the requirements of protected activity for the first, third, fourth, fifth and sixth causes of action
19 based on the disclosure of reasonably based suspicions of illegal activity and are not negated by
20 the facts stated in Defendant's separate statement. *See* the Board's Facts 8-9 (the only facts about
21 the November 2013 disclosure regarding the operations and maintenance programs) and Facts 22-
22 26 (the only facts about the January 10, 2014 disclosure about the science building). Paragraph 56
23 of the first amended complaint alleges that the information Mr. Nevatt provided to Cal/OSHA led
24 that agency to institute proceedings against SFSU. These allegations are sufficient to support the
25 requirement of protected activity for the second cause of action and are not negated by the facts
26 stated in the Board's separate statement. (*See* the Board's Facts 27-28 (the only facts about Mr.
27 Nevatt's disclosure to Cal/OSHA).

28 By his Additional Facts 1-2, 4-12, 14-15, 27-29, and 33, Mr. Nevatt provided ample
evidence that he engaged in protected activity sufficient to create a triable issue regarding the

1 protected activity requirement for his first, third, fourth, fifth and sixth causes of action based on
2 the disclosure of reasonably based suspicions of illegal activity.

3 The Board's objections to the evidence submitted by Plaintiff cited in support of his
4 Additional Facts 1-2, 4-12, 14-15, 27-29, and 33 are OVERRULED.

5 Mr. Nevatt's requests to amend his complaint and for a continuance of the hearing per
6 Code of Civil Procedure 437(c)(h) are DENIED as unnecessary to resolution of this motion.

7
8 IT IS SO ORDERED

9
10 Dated:

4/29/16

/s/

HAROLD KAHN

(Signature)

JUDGE OF THE SUPERIOR COURT

HON.

HAROLD KAHN