

# New law is driving down motions

The Legislature enacted of Code of Civil Procedure Section 430.41 in 2016, and earlier this month a new set of changes took effect.

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	L&M Days	Number of Motions:						Fees	Tax Cost
		Dem	JOP	Strike	Arb	SJ	Disc		
January	16	9	1	6	1	3	7	1	2
February	14	5	1	3	1		7	2	2
March	22	10	1	6	2	3	8		
April	14	10		3	2	4	4	1	
May	11	7	1	1		1	6		2
June	20	8	1	1	1	3	11	1	1
July	17	6			2	1	4		
August	18	9		1	3	2	3		
September	15	6	1		2	5	7		2
October	19	3	1	2	3	2	7	2	
November	16	3	1		3	3	9	1	
December	14	4		3	1	3	5		2
Total	193	80	8	26	21	31	78	11	11

*Table 1*

About this time last year I wrote an article published in the Daily Journal describing the decline from prior years in the number of demurrers that were decided in my individual calendar courtroom. I attributed that reduction to the Legislature's enactment of Code of Civil Procedure Section 430.41, which took effect on Jan. 1, 2016. Section 430.41 requires that a defendant meet and confer with plaintiff's counsel -- "in person or by telephone" (not through letter or email) -- for the purpose "of determining whether an agreement can be reached that would resolve the objections to be raised by demurrer."

The meet and confer is to occur at least five days "before the date a demurrer must be filed," but, if the parties are unable to meet, then the moving party is to file a declaration stating that a good faith attempt to meet and confer was made. The moving party is then granted a 30-day extension to complete the meet & confer and, if need be, to file the intended demurrer.

In my courtroom, the downward trend in demurrers, noted in 2016, continued apace in 2017. And now the Legislature has adopted new statutes to impose the meet-and-confer requirement for other motions that may be used to challenge the sufficiency of complaints and cross-complaints. Will 2018 bring further relief to the civil trial courts?

Article About Judge Daniel Buckley:

<http://www.metnews.com/articles/2018/buckley011218.htm>