



Superior Court of California County of San Benito

Tentative Decisions for March 16, 2026

Courtroom #1: Judge J. Omar Rodriguez

CU-24-00092 Kurasaki, Kazuko et al vs. CA. Dept. of Transportation, et al

The Case Management Conference is continued to August 3, 2026 at 10:30 a.m. Plaintiff to provide notice.

The San Benito County Water District's ("the District") Demurrer to Plaintiffs' Second Amended Complaint ("SAC") is SUSTAINED with leave to amend as to Plaintiffs' Second, Third, Fourth, Fifth, and Sixth Cause of Action. Plaintiffs may file their Third Amended Complaint within 15 days after receiving notice of this order. The District's request for judicial notice is granted as requested.

A demurrer generally serves to test the legal sufficiency of the complaint's factual allegations. (*Genis v. Schainbaum* (2021) 66 Cal. App. 5th 1007, 1014.) It does not test the factual accuracy or truth of the facts alleged. The court must assume the truth of all properly pled allegations. The process of a demurrer does not serve to test the merits of the Plaintiff's case. (*Tenet Health System Desert Inc. v. Blue Cross of CA.* (2016) 245 Cal App 4th 821, 834.) Because a demurrer only challenges the defects on the face of the complaint, it can only refer to matters outside the pleadings which are subject to judicial notice. (*Id.* at 831.) For demurrer, a judge must treat the demurrer as an admission of all material facts properly pled in the challenged pleading or that reasonably rise by implication, however improbable they are. (*Collins v. Thurmond* (2019) 41 Cal. App 5th 879, 894.) As such, "the plaintiff must show the complaint alleges facts sufficient to establish every element of each cause of action." (*Rakestraw v. Cal. Physicians' Serv.* (200) 81 Cal.App.4th 39, 43.) "If the complaint fails to

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plead, or if the defendant negates, any essential element of a particular cause of action,” the demurrer should be sustained. (*Id.*)

Generally, leave to amend is granted liberally. (*Foroudi v. Aerospace Corp.* (2020) 57 Cal. App. 5th 992, 1000.) Leave to amend may be denied where in all probability that no amount of amendment will cure the defects, rendering the process futile. (*Id.*)

Plaintiffs’ Second Cause of Action fails because it fails to identify a statute imposing a mandatory duty on the District. Government Code section 815.6 states that except as otherwise provided by statute, a public entity is not liable for injury, whether such injury arises out of an act or omission of the public entity or a public employee or any other person. Section 815.6 provides a narrow statutory basis for liability where: (1) An enactment must impose a mandatory, not discretionary duty; (2) The enactment must intend to protect against the kind of risk of injury suffered by the party asserting the statute as a basis for liability; and (3) Breach of the mandatory duty must be a proximate cause of the injury suffered. (Govt. Code § 815.6; *Haggis v. City of Los Angeles* (2000) 22 Cal.4th 490, 498; *California v. Superior Court* (1984) 150 Cal.App.3d 848, 854; *San Mateo Union High Sch. Dist. v. County of San Mateo* (2013) 213 Cal. App. 4th 418, 428.) “(D)irect tort liability of public entities must be based on a specific statute declaring them to be liable, or at least creating some specific duty of care, and not on the general tort provisions of Civil Code § 1714. Otherwise, the general rule of immunity for public entities would be largely eroded by the routine application of general tort principles.” (*Eastburn v. Regional Fire Protection Authority* (2003) 31 Cal.4th 1175, 1183.) “It is not enough that some statute contains mandatory language. In order to recover plaintiffs have to show that there is some specific statutory mandate that was violated by the [public entity].” (*Washington v. County of Contra Costa* (1995) 38 Cal.App.4th 890, 896-897.) In determining whether an enactment creates a mandatory duty, courts must look to both the language of the statute and to the legislative intent enacting the law containing the duty. (*Morris v. County of Marin* (1977) 18 Cal.3d 901, 910-911, fn. 6.) Broad, discretionary, or permissive language does not satisfy this requirement. (*Eastburn v. Regional Fire Protection Authority* (2003) 31 Cal.4th 1175, 1183; *Munoz v. City of Union City* (2004) 120 Cal.App.4th 1077, 1112.)

Here the SAC does not identify any specific statute that imposes a clear duty that is non-discretionary on the District. The SAC cites the California Water Code as the statute that created the District's responsibility for planning and engineering stormwater control with the district. (SAC 6:2-15.) However these statutes confer general powers and authority, but not mandatory obligations or requires a specific act to be taken.

Plaintiffs' Third, Fourth, and Fifth Causes of Action fail as the District is not liable for common law claims absent statutory authority that imposes liability. Public entities are not liable for injuries except where a statute expressly authorizes such liability. (Govt. Code, § 815(a); *Miklosy v. Regents of University of California* (2008) 44 Cal.4th 876, 899; *Hoff v. Vacaville Unified Sch. Dist.* (1998) 19 Cal.4th 925, 932; *Ellerbee v. County of Los Angeles* (2010) 187 Cal.App.4th 1206, 1214; *Eastburn v. Regional Fire Protection Authority* (2003) 31 Cal.4th 1175, 1179; *Zelig v. County of Los Angeles* (2002) 27 Cal.4th 1112, 1127; *Searcy v. Hemet Unified Sch. Distr.* (1986) 177 CA3d 792, 802.) This statutory framework abolishes all common-law governmental tort liability and codifies the principle that common-law theories cannot create liability against a public entity. (See, e.g., *Hoff v. Vacaville Unified Sch. Dist.*, 19 Cal.4th at 942; *Eastburn v. Regional Fire Protection Authority*, 31 Cal.4th at 1179.) As pleaded, the common law tort claims against the District—including Nuisance, (Third Cause of Action), Negligence (Fourth), and Trespass (Fifth)—fail because none identifies a statutory basis for imposing liability on the District, as required by Government Code section 815.

Regarding the Third Cause of Action – Nuisance, the SAC cites Civil Code section 3479 as a statutory basis for nuisance liability against a public entity. However, Civil Code section 3482 provides for complete immunity where the challenged conduct is expressly authority by statute. Here, the conduct challenged, which includes the District's operations, maintenance and implementation of the water channel project on public property, is expressly authorized by statute. As a result, the claim, as it is based on Civil Code section 3479, is barred.

CU-24-00215 **Gomez, Joshua vs. Hollister Subs, Inc. et al**

The Case Management Conference is continued to June 8, 2026 at 10:30 a.m.

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CU-25-00317 In the Matter of Jennifer Ibarra

The Petition is GRANTED as requested.

PR-24-00109 Estate of James Chris Peters

The matter was previously continued to allow Petitioner to file an amended request as the prior request was inadequate. The court denies the current request and the matter is taken off calendar. The Court sets a further status conference to take place on September 14, 2026 at 10:30 a.m.

PR-25-00131 Estate of Rico G. Felice aka Rico Felice aka Rico Gennaro Felice

The Petition is APPROVED as requested. Bond is waived. Lucia Areias is appointed as referee. Full authority is granted to administer the estate under the Independent Administration of Estates Act. Petitioner is to file an Inventory and Appraisal within four months of issuance of letters (Prob. Code section 8800(b)) and either a petition for an order for final distribution of the estate or a report of status of administration within the timeframe set out in Probate Code section 12200.

The matter is set for hearing on September 14, 2026, at 10:30 a.m. for status of estate or final account and distribution. No appearances at the hearing will be required if the court determines that administration of the estate is timely proceeding, or good cause is shown why more time is required.

PR-25-00135 In the Matter of Glen W. Gilbert 2025 Revocable Trust

The Petition to Determine Claim to Property is APPROVED as requested.

PR-26-00016 In the Matter of Cierra Lin Matuzek

The hearing is continued to April 6, 2026 at 10:30 a.m. to allow for the completion of the report.

END OF TENTATIVE DECISIONS

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