



Superior Court of California County of San Benito

Tentative Decisions for May 19, 2025

Courtroom #1: Judge J. Omar Rodriguez

CU-24-00147 Espinola vs. Van

Defendant Pan's Motion for Leave to File Cross-Complaint is GRANTED as requested. Responsive pleadings must be filed within 30 days of the date of notice of entry of this order. The Case Management Conference is continued to June 30, 2025 at 10:30 a.m.

Pursuant to Code of Civil Procedure section 426.50, an application for leave to file a cross-complaint, absent bad faith on the part of the moving party, shall be granted. The statute is clear that it should be "liberally construed to avoid forfeiture of causes of action." (Cal. Civ. Proc. §426.50.) Similarly, Code of Civil Procedure section 428.50(c) allows the filing of a cross-complaint on leave of court "in the interests of justice at any time during the course of action." Ordinarily, the court does not consider the validity of the proposed pleading in determining whether to grant leave to file. (*Kittredge Sports Co. v. Super. Ct.* (1989) 213 Cal.App 3rd 1045, 1048.) The standard is one of great liberality so that cases can be tried on their merits. (*Mabie v. Hyatt* (1998) 61 Cal. App.4th 581, 596.) Courts have granted leave to file cross-complaint even up to the eve of trial, holding that it is mandatory to grant the same, absent bad faith. (*Silver Organizations LTD v. Frank* (1990) 217 Cal.App.3rd 95, 98-99.) Pursuant to Code of Civil Procedure section 426.10(c) the filing of a cross-complaint is compulsory to the extent that it arises from the same transaction(s) or occurrence(s) or a series of transaction(s) or occurrence(s).

Here, when the underlying complaint was filed, Mr. Pan was a named defendant. His default was taken, but he filed a motion to set aside the default, which was ultimately granted. Mr. Pan's cross-complaint was not filed due to him being in default. Defendant Pan asserts that he was the victim of tortious actions of his Co-Defendants in the underlying complaint. Here, it appears that there is a significant overlap between the issues and facts in the Cross Complaint and those stated in the First Amended Complaint. Thus, it would be appropriate to grant leave to file the cross complaint to promote not only judicial economy but also to avoid the risk of inconsistent results. Pan's assertion that he has acted in good faith remains uncontroverted. Moreover, trial has not been set, and it appears that discovery is in its early stages. It thus appears appropriate to grant the request.

CU-24-00200 Barajas vs. Edgar

The court sustains the demurrer to the single cause of action in the complaint (professional negligence) on the basis that the complaint fails to state a cause of action and is fatally ambiguous. The court grants the Plaintiff leave to amend the complaint within 30 days of the date of this order. The Case Management Conference is continued to August 18, 2025 at 10:30 a.m.

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.) A party may demur when any ground for objection to a complaint appears on the face of it, or from a matter from which the court is required or may take judicial notice. (Cal. Code Civ. Proc. §430.30(a); *Levy v. Neilson* (2000) 83 Cal.App.4th 1061, 1063.) Demurrer lies where it appears on the face of the complaint that the plaintiff has not alleged facts sufficient to state a cause of action. (Cal. Code of Civ. Proc. §430.10(e); *James v. Sup. Ct.* (1968) 261 Cal.App.2nd 415.) 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.) When any ground for objection to a complaint appears on the face thereof, or from any matter of which the court is required to or may take judicial notice, the objection on that ground may be taken by a demurrer to the pleading. (Cal. Code Civ. Proc. §430.30(a); *Levy v. Nielson* (2000) 83 Cal.App.4th 1061, 1063.) 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.) For the purpose of testing the sufficiency of a cause of action, contentions, deductions, or conclusions of law are not admitted as true, and must be ignored. (*Aubry v. Tri-City Hosp Dist.* (1992) 2 Cal.4th 962, 966-67.) A party may not allege facts inconsistent with the exhibits to the complaint. (*Moran v. Prime Healthcare Management, Inc.* (2016) 3 Cal.App.5th 1131, 1145-6.)

The failure to state facts sufficient to constitute a cause of action are proper to sustain a demurrer. (Cal. Code Civ. Proc §430.10(e); see also *Esparza v. County of Los Angeles* (2014) 224 Cal.App.4th 452,459.) To prevail against the challenge, the complaint must sufficiently allege 1) every element of that cause of action and 2) Plaintiff's standing to sue. (*Shaeffer v. Califa Farms, LLC* (2020) 44 Cal.App.5th 1125, 1134.) The facts that must be included in the complaint to properly allege a cause of action are the essential elements of that cause of action, as determined by the substantive law defining that cause of action. (*Foster v. Sexton* (2021) 61 Cal.App.5th 998, 1018.) A plaintiff need only plead ultimate facts rather than evidentiary facts. (*CW Johnson and Sons v. Carpenter* (2020) 53 Cal.App.5th 165,169.) A plaintiff must allege the essential facts with "clearness and precision so that nothing is left to surmise," and those allegations of material fact that are left to surmise are subject to demurrer. (Cal. Code Civ. Proc §430.10(f); *Bernstein v. Pillar* (1950) 98 Cal.App.2nd 441, 443.) The court may sustain demurrer without leave to amend, unless there is a reasonable probability that the Plaintiff will be able to cure by amendment. (*Goodman v. Kennedy* (1976) 18 Cal.3rd 335, 349.)

A pleading must allege facts and not conclusions, and that material facts must be alleged directly and not by way of recital. (*Ankeny v. Lockheed Missiles & Space Co.* (1979) 88 Cal.App.3d 531, 537.) "Also, in pleading, the essential facts upon which a determination of the controversy depends should be stated with clearness and precision so that nothing is left to surmise." (*Ibid.*)

A cause of action for professional negligence requires Plaintiff prove 1) the duty that the professional exercise the skill, prudence, and diligence that other members of their profession commonly possess and exercise; 2) that there was a breach of that duty; 3) that there is a proximal causal connection between the negligent conduct and the resultant injury,

and 4) that actual losses or damage resulted from the professional's negligence. (*Budd v. Nixen* (1971) 6 Cal.3d 195, 200.) The Complaint lists five errors alleged to have been committed by Plaintiff, but these allegations lack sufficient specificity and are ambiguous depriving the Defendant of the ability to intelligently respond without needing to guess or speculate as to the central facts. (*Ankeny v. Lockheed Missile and Space Co.* (1979) 88 Cal. App.3d 531, 537.) For example, it is not clear what changes were made by Defendant to Plaintiff's documents to benefit the buyers and there is no allegation that the changes are tied to any allegation of duty, breach, causation or resulting damage. (Complaint p.3.) The second alleged mistake committed by Defendant relates to the creation of a lease. (Complaint p.3.) However, Plaintiff acknowledges that Plaintiff lacks proof as it pertains to conduct performed by Defendant Edgar. The third alleged error claims that Defendant created a corporation for "them", but it is ambiguous as to the identity of "them". (Complaint p.4.) As a result of these issues, the Court sustained the Demurrer with leave to amend.

CU-24-00254 Zurich American Insurance Company vs. Saavedra-Santiago, et al.

The unopposed Motion to Consolidate San Benito Superior Court Case CU-24-00254 (Zurich American Insurance Company v. Alejandro Saavedra-Santiago, et al.) and CU-24-00255 (Melissa Pryor v. California Vanpool Authority, et al.) is GRANTED. Pursuant to Labor Code section 3853 the court grants the Plaintiff's motion to consolidate cases with Case number CU-24-00254 designated as the lead file, with all future pleadings to be filed under that case number. The Court grants the Plaintiff's request for judicial notice.

The Case Management Conference to remain on calendar. The parties shall be prepared to discuss trial dates.

CU-25-00011 Mena vs. Sandoval

In light of the recent Order for Publication of Summons, the Case Management Conference is continued to September 15, 2025 at 10:30 a.m.

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CU-25-00013 Rodriguez vs. Sandoval

In light of the recent Order for Publication of Summons, the Case Management Conference is continued to September 15, 2025 at 10:30 a.m.

CU-25-00017 Smolka vs. Espinoza, et al.

The Case Management Conference is continued to June 9, 2025 at 10:30 a.m. to be heard on the same date as the hearing regarding the Motion to be Relieved as Counsel.

PR-25-00005 In the Matter of Frank Covarrubias

Petitioner's Motion for Attorneys' Fees is GRANTED. The Court awards Petitioner his attorney's fees in the amount of \$15,418 and costs in the amount of \$646.97 for a total of \$16,064.97 payable by Respondent from Trust funds within 10 days from the date of notice of entry of this order.

A party seeking attorneys' fees must present evidence substantiating the time spent, the hourly rate of each attorney, and evidence that the fees incurred were allowable, reasonably necessary to the conduct of the litigation, and were reasonable. (Levy v. Toyota Motor Sales (1992) 4 Cal.App.4th 807.) As explained in Petitioner's Motion and supporting pleadings, the amount requested is reasonable as Petitioner's actions were reasonably necessary and conferred a substantial benefit on all the Trust's beneficiaries.

END OF TENTATIVE DECISIONS