



Superior Court of California County of San Benito

Tentative Decisions for September 22, 2025

Courtroom #1: Judge J. Omar Rodriguez

CU-23-00165 Biakanja vs. The State of CA Dept. of Transp.

a. Defendant Altman Specialty Plants, LLC and Araceli Zarate's Demurrer to Plaintiff's Complaint.

A defendant appears in an action when the defendant answers, demurs, files a notice of motion to strike, files a notice of motion to transfer pursuant to Section 396(b), moves for reclassification pursuant to Section 403.040, gives the plaintiff written notice of appearance, or when an attorney gives notice of appearance for the defendant. (Cal. Code Civ. Proc. §1014.) After appearing, a defendant, or their attorney is entitled to notice of all subsequent proceedings of which notice is required to be given. (*Ibid.*) A defendant filing a notice of motion for change of venue is deemed to have made a general appearance. (*Slaybaugh v. Superior Court* (1977) 70 Cal. App. 3rd 216, 221.) Code of Civil Procedure section 418.10 authorizes motions to quash summons, to stay or dismiss on inconvenient forum and related procedural matters, and the relationship between those motions and general appearance providing certain protections to defendants seeking to challenge jurisdiction or venue without inadvertently submitting to the court's jurisdiction. Neither Zarate nor Altman Specialty Plants pursued relief pursuant to Code of Civil Procedure section 418.10 in CU-25-00161, but rather sought transfer of venue pursuant to Code of Civil Procedure section 396(b). The motion filed by the opposing defendants in Los Angeles County thus constituted a general appearance. A demurrer to a complaint or a cross complaint must be filed within thirty days

Page 1 of 6

****Please contact Judicial Courtroom Assistant, Emily Lozon, at
(831) 636-4057 x130 or elozon@sanbenitocourt.org with
any objections or concerns.**

after the service of the complaint or cross complaint. (Code of Civil Procedure §§430.40(a), 432.10.) The court has discretion to consider a demurrer filed after the thirty day deadline has lapsed, but must be made in the furtherance of justice and on any proper terms (Code of Civil Procedure §473(a)(1); *Jackson v. Doe* (2011) 192 Cal. App. 4th 742, 749.) Good cause for such extension must be shown and the extension may not exceed “an additional” thirty days without the adverse party’s consent. (Code of Civil Procedure §1054 sub (a); Cal Rules of Court 2.20 (procedures governing applications for orders extending time); *Jackson v. Doe*, supra, 192 Cal. App. 4th at 749-750.) Here, in CU-25-00161, the consolidation of which appears to be the prime mover behind the Defendants’ Demurrer, addresses the complaint filed in the action in Los Angeles County which was subsequently transferred to San Benito County and consolidated with the current active cases in CU -23-00165. However, the mere transfer of venue in light of the procedural history prior to the consolidation provides neither factual nor legal basis to restart the clock for the filing of a demurrer by the Defendants. In CU-25-00161 (consolidated into CU-23-00165) the documented history of the case shows that the Defendant Altman Specialty Plants in that now-consolidated case had been properly and timely served on or about December 2, 2024, by substituted service. On February 7, 2025 both Zarate and Altman Specialty Plants appeared in the matter and moved to change venue from Los Angeles to San Benito County. (Los Angeles Case 24STCV20464) These Defendants did not demur to the Complaint. Even if one presumes that the court obtained jurisdiction over Ms. Zarate on or about February 7, 2025, the window for Ms. Zarate and Altman Specialty Plants has long since passed.

Additionally, the court notes that in the previously consolidated cases, specifically, CU-23-00170, Zarate and Altman Specialty Plants previously demurred to the McIntire plaintiff’s cross complaint on 1-31-24, arguing, as they do in this demurrer, that “there are no named cross complainants that meet the statutory definition of a wrongful death beneficiary because none exist.” (CU-23-00171 Cross Defendant Zarate/Altman’s Demurrer to Cross Complaint, p 7, LL21-22.) The argument then, as now, is premised on the assertion that the right to sue for wrongful death is statutory in nature, and exists only so far as the statute defines persons who may pursue relief. (see Code of Civil Procedure §377.60; *Justus v. Atchison* (1977) 19 Cal. 3rd 564, 575.) As here, it is argued, again, that persons who are

entitled to succeed to the decedent's estate under the law of intestate succession need not be dependent on the decedent to recover under a wrongful death statute, but the claim of a parent of a decedent is based on whether those persons were dependent on the decedent, i.e. whether they received financial support for the necessities rather than the niceties of life from the decedent. They again argue that the complaint fails to present any such facts and thus the McIntires are without standing to pursue the claim they make. This argument was previously made and rejected in CU-23-00170 by this court in its ruling on March 6, 2024. The Defendants have failed to state any good cause or legal authority supporting the court allowing what is an untimely demurrer to proceed, particularly in light of the fact that these arguments were previously raised and overruled by this court last year in the previously consolidated cases that were made part of this action long before the current consolidation order issued.

As a result, the demurrer is overruled in its entirety as untimely.

b. Defendant Altman Specialty Plants, LLC and Araceli Zarate's Motion to Strike Punitive Damages from Plaintiff's Complaint.

The court may strike "irrelevant, false or improper matter" including demands for judgment and requests for relief unsupported by the allegations of the complaint. (Cal. Code Civ. Proc. §§431.10(b), (c); 435, 436(a).) Motions to strike can be used to attack any "irrelevant, false or improper" matters in any pleading, to strike any pleading or part of a pleading that is "not drawn or filed in conformity with the laws of this state, a court rule, or an order of the court." (Cal. Code Civ. Proc. §436.) Allegations that are neither pertinent to nor supported by sufficient claims or defenses or demands for judgment unsupported by allegations in the complaint are irrelevant. (Cal. Code Civ. Proc. §431.10(b).) A motion to strike punitive damages allegations may be granted where the allegations in a complaint do not support an award of such damages as a matter of law. (*Commodore Home Syst., Inc. v. Sup. Ct.* (1982) 32 Cal. 3rd 211, 214-215.)

A claim for punitive damages is not liberally construed and must be supported by specific factual allegations. (*G.D. Searle & Co. v. Sup. Ct.* (1975) 49 Cal. App. 3rd 22, 29.) The court properly strikes a claim for punitive damages when the complaint fails to allege

Page 3 of 6

****Please contact Judicial Courtroom Assistant, Emily Lozon, at
(831) 636-4057 x130 or elozon@sanbenitocourt.org with
any objections or concerns.**

facts to support such damages. (Cal. Civ. Code §3294.) To support a claim for a punitive damages award, a party must allege facts with specificity that constitute the requisite malice, oppression, and fraud. (Cal. Civ. Code §3294; *Brousseau v. Jarrett* (1973 Cal. App. 3rd 864, 872; *Scott v. Phoenix Schools, Inc.* (2009) 175 Cal. App. 4th 702, 716.) Because a claim for punitive damages has a higher evidentiary burden, courts often strike claims for which punitive damages are not clearly authorized. (Cal. Civ. Code §3294(a); *Wollstrum v. Mailloux* (1983) 141 Cal.App.3rd Supp. 1, 11.) Fraud is the intentional misrepresentation, deceit, or concealment of a material fact with the intention of the defendant to deprive a party of rights, property, or otherwise cause injury. (Cal. Code Civ. Proc. §3294(c)(3).) Malice is conduct intended to cause injury to the plaintiff, or despicable conduct carried out with the conscious and willful disregard for the rights or safety of others. (Cal. Code Civ. Proc. §3294(c)(1).) Oppression is conduct subjecting a person to cruel and unjust hardship in conscious disregard of that person's rights. (Cal. Civ. Code §3294(c)(2).)

Here, the complaint states generally that on the night in question that Zarate was operating the 18-wheel truck/trailer at 8 miles above the speed limit. (Complaint ¶44) The complaint fails to alleges facts that would show purposeful, willful acts with the end goal of willful harm or even outright disregard for the safety of others. Further the complaint alleges that a catastrophic failure of the tire on the decedent's car resulted in the involuntary loss of control of that vehicle causing the decedent to cross over the center line and collide with the truck driven by Ms. Zarate. Such facts support the contention that the malfunction of the subject vehicle could have possibly caused the collision as opposed to Defendant's actions. The allegations that Altman Specialty Plants is vicariously liable for punitive damages based on Ms. Zarate's driving are equally suspect. There are no facts pled indicating that Ms. Zarate intended to cause harm to the decedents or acted with willful disregard for the safety of others or that there was any despicable conduct carried out with fraudulent intent.

As a result, the allegations fail to support a prayer for relief in the form of punitive damages. The court GRANTS the Motion to Strike and paragraphs 47, 48, and 58 of the Complaint, and Prayer for Relief 3 shall be stricken.

CU-24-00279 **San Benito Health Care vs. Aguirre, et al.**

The Case Management Conference is continued to November 17, 2025 at 10:30 a.m. to be heard with the Motion for Entry of Judgment.

The Order to Show Cause is dismissed.

CU-25-00155 **Petition of Fedel Jose Hernandez**

The Petition is GRANTED as requested.

PR-16-00056 **Conservatorship of Gilbert Ruiz Jr.**

The Court continues the hearing on the Biannual Review to allow for the completion of the investigation. The new hearing date is October 27, 2025 at 10:30 a.m.

PR-18-00063 **In Re Estate of: Jeanette M. Ottoboni**

The Petition for Final Distribution and for Allowance of Compensation to Attorney is APPROVED as requested.

PR-24-00076 **Conservatorship of Itzamary Rodriguez**

The Court has read and considered the investigator's report filed September 19, 2025 and adopts the recommendations. The Conservatorship shall remain in place and be reviewed in two years. The Court will provide notice of the new hearing date.

PR-25-00079 **In the Matter of Aleyna Soledad Cedillo Penaloza (Minor)**

The Court continues the hearing on the Petition for Guardianship to allow for the completion of the investigation. The new hearing date is October 27, 2025 at 10:30 a.m.

PR-25-00084 **In the Matter of Yulissa Cedillo Penaloza (Minor)**

The Court continues the hearing on the Petition for Guardianship to allow for the completion of the investigation. The new hearing date is October 27, 2025 at 10:30 a.m.

PR-25-00085 In the Matter of Cedillo, Neymar (Minor)

The Court continues the hearing on the Petition for Guardianship to allow for the completion of the investigation. The new hearing date is October 27, 2025 at 10:30 a.m.

PR-24-00107 In the Matter of Sandra Terry

The Court has read and considered Petitioner's Report of Status of Administration and continues the Status Conference to December 15, 2025 at 10:30 a.m.

PR-24-00113 Estate of Jannis Ann Huddleston

The September 22nd Status Conference is continued to December 8, 2025 at 10:30 a.m. Petitioner may use this date as the hearing date for the Petition for Final Distribution.

The Order to Show Cause is dismissed.

PR-24-00114 Estate of Robyn Marie Grannis

The hearing on the Petition is continued to permit Petitioner to file a written response. The hearing is continued to October 20, 2025 at 10:30 a.m.

PR-25-00087 In re The Charles H. Jones III and Sandy S. Jones Family Trust

The Petition for Order Modifying Irrevocable Trust is APPROVED as requested.

END OF TENTATIVE DECISIONS