



# Superior Court of California County of San Benito

## Tentative Decisions for April 17, 2024

**Courtroom #1: Judge J. Omar Rodriguez**

**10:30 a.m.**

### CU-23-00238 Heron, et al. v. W. Ranch LLC

The Demurrer filed by Cross-Defendants Linden-Cupps and Shawn Cupps is **OVERRULED**. The Motion to Strike the Cross-Complaint is **DENIED**.

A demurrer serves to challenge the legal sufficiency of a complaint for failure to state facts sufficient to constitute a cause of action. (Cal. Civ.Proc. §430.10 (e).) The court must determine is whether the complaint, as it stands, states a cause of action. (*McKenney v. Purepac Pharm. Co.* (2008) 167 Cal. App. 4th 72,77.) The complaint must sufficiently allege every element of the cause of action and state the Plaintiff's standing to sue to properly state a cause of action. (*Shaeffer v. Califa Farms, LLC* (2020) 44 Cal. App. 5th 1125, 1134.)

The pleading must state ultimate facts which, when taken as a whole, apprise the Defendant of the factual basis of the claim. While the court must assume the truth of all facts properly pled, or judicially noticeable facts, and any inferences that can reasonably be drawn therefrom, the court does not assume the truth of contentions, deductions, or conclusions of law. (*Cansino v. Bank of America, N.A.* (2014) 224 Cal. App. 4th 1462, 1468.). As such, the standard of the court's review is whether sufficient facts have been stated, not whether they are evidentiarily sufficient to prove the claim, or even whether they are probable.

The elements as to the First Cause of Action, Equitable Indemnity, are: 1) a showing of fault on the part of the indemnitor; and 2) resulting damage to the indemnitee for which the

Page 1 of 5

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any objections or concerns.**

indemnitor is contractually or equitably liable. (*Expressions at Rancho Niguel Ass'n v. Ahmanson Devel. Inc.* (2001) 86 Cal. App. 4th 1135, 1139.) The Cross-Complaint alleges that the Cross-Defendants' actions or inactions worsened the injury suffered by Plaintiff as alleged in her Complaint. (Cross-Complaint 1, ¶12.) Equitable indemnification can be alleged non-contractually, contrary to Cross-Defendants' argument. (*Herrero v Atkinson* (1964) 227 Cal. App. 2nd 69.) Cross-Defendants further argue that their lack of ownership interest defeats the claim made, thus warranting sustaining the demurrer. However, the analysis is only whether the facts pled are sufficient, if adequately pled, to show that the defendants' actions indicate a level of fault for the resultant damage. Sufficient facts have been alleged and the Demurrer is overruled.

As to the Second Cause of Action, Cross-Complainants have added an alternative cause of action of contribution, as allowed by Code of Civil Procedure Section 875. The Demurrer as to the Second Cause of Action is overruled.

As to the Third Cause of Action, Defamation, Cross-Complainants must allege: an intentional publication of a statement of fact that is false, unprivileged, and has a natural tendency to injury or which causes special damages. (*Grenier v. Taylor* (2015) 234 Cal. App. 4th 471, 486.) Cross-Defendants' primary argument is that this Cause of Action is time-barred. The allegations made in Paragraphs 21 through 24 of the Cross-Complaint describe different statements made at different times. The Cross-Complaint alleges that Cross-Defendant Linden-Cupps and Plaintiff committed both libel and slander and that they did so in different forms, to different people, and on different dates. (Cross-Complaint, ¶¶ 21 - 24.) Nowhere is it alleged that Cross-Defendant Linden-Cupps or Plaintiff were repeating the same defamatory statement. Therefore, based on the allegations in the Cross-Complaint, the Demurrer to the Third Cause of Action for defamation is overruled.

The Fourth Cause of Action for Tortious Interference with Economic Opportunity requires that the Plaintiff and a third party have an economic relationship that probably would have resulted in an economic benefit to the plaintiff, that the defendant knew of the relationship, the defendant engaged in conduct that they knew to be wrongful, and that by so doing, the defendant intended to disrupt the relationship, or that disruption was certain or substantially certain, that the relationship was disrupted, and that the plaintiff was harmed and

defendants actions were a substantial factor in that harm occurring. The Cross Complaint at paragraphs 30 through 32 sufficiently state a claim for tortious interference with economic opportunity. The tort protects the same interests in stable economic relationships as does the tort of interference with contract, though this claim does not require proof of a legally binding contract. (*PG&E Co. v. Bear Stearns & Co.* (1990) 50 Cal. 3rd 1118, 1126.) While Cross Defendant Linden-Cupps argues that the demurrer must be sustained because there is no breach of contract alleged in the complaint, this is not an element of the cause of action. (Demurrer, p 8-9.) Therefore, the demurrer is overruled to this claim.

The Fifth Cause of Action is for breach of contract and account stated. The elements of a claim for breach of contract are the existence of a contract, plaintiff's performance or excused nonperformance; defendant's breach; and the resulting damages to plaintiff. (*Oasis West Realty, LLC v. Goldman* (2011) 51 Cal. 4th 811, 821.) The facts as alleged in the complaint from paragraph 35 to 39 state these elements. The Cross-Complaint does not allege that the Invoice is the parties' contract; it is attached to support that there was a contract for Cross-Complainants to provide services to Linden-Cupps, that such services had been provided, and that an amount was due from Linden-Cupps. Further, there is no requirement for the Cross-Complainants to allege that the parties' contract is enforceable and not void; it would be an affirmative defense for Linden-Cupps to allege that the contract is void. Therefore, the Demurrer to the Fifth Cause of Action is overruled.

Finally, the required elements for the Sixth Cause of Action for Account State are: (1) previous transactions between the parties establishing the relationship of debtor and creditor; (2) an agreement between the parties, express or implied, on the amount due from the debtor to the creditor; (3) a promise by the debtor, express or implied, to pay the amount due." (*Zinn v. Fred R. Bright Co.* (1969) 271 Cal.App.2d 597, 600.) The Cross-Complaint alleges each of these elements. Therefore, the Demurrer to the Sixth Cause of Action is overruled.

Similarly, the Motion to Strike is denied. The Cross-Defendants' requests are duplicative of those made in their demurrer and therefore denied on those grounds. The only item in the Motion to Strike that is not duplicated in the Demurrer is the request to strike the prayer request for pre-judgment interest. Under Civil Code sections 3287 and 3289, Cross-

Complainants are entitled to recover interest at the statutory rate of ten percent. Therefore, this claim for relief is not an improper request for relief and the Motion to Strike is denied.

**CU-24-00020 Petition of Karla Daniela Zarate Amador**

The Petition is GRANTED as requested.

**PR-22-00056 Estate of Richard Raymond Gurley**

The Petition for Waiver of Account and Approval for Final Distribution is APPROVED as requested.

**PR-23-00082 Estate of Jack Frusetta**

The Court has reviewed the status report filed on April 9, 2024. The matter is continued to October 16, 2024 at 10:30 a.m. for further status conference.

**PR-24-00022 Conservatorship of Blas Berumen Alonso**

The hearing is continued to May 22, 2024 at 3:30 p.m. in order for the investigation to be completed.

**3:30 p.m.**

**CU-24-00001 Petition of Charlene E. Hernandez**

The Petition for Change of Name is APPROVED as requested.

**PR-24-00034 Estate of Julie Nona Kato**

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 October 16, 2024 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.

**END OF TENTATIVE DECISIONS**

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