January 23, 2026
Dept. 9
Tentative Rulings

1.	24CV0144	VAN SKIKE, ET AL. v. COUNTY OF EL DORADO ET AL
Compromise Minor's Claim		

This is a Petition to compromise a minor's claim. The Petition states the minor sustained multiple serious injuries resulting from a vehicle-pedestrian collision. A copy of the accident investigation report was filed with the Petition, as required by Local Rule 7.10.12A(4). Petitioner requests the court authorize a compromise of the minor's claim against defendant/respondent in the gross amount of $750,000.

The Petition states the minor incurred $301,967.32 in medical expenses that would be deducted from the settlement. Copies of invoices for the claimed medical expenses are attached to the Petition as required by Local Rules of the El Dorado County Superior Court, Rule 7.10.12A.(6).

The Petition states that the minor is recovering and is under observation to determine the need for continued treatment, and also has permanent scarring and emotional trauma. A doctor's report concerning the minor's condition and prognosis of recovery is attached, as required by Local Rules of the El Dorado County Superior Court, Rule 7.10.12A.(3).

The minor's attorney requests attorney's fees in the amount of $150,000, which represents 20% of the gross settlement amount. The court uses a reasonable fee standard when approving and allowing the amount of attorney's fees payable from money or property paid or to be paid for the benefit of a minor or a person with a disability. (Local Rules of the El Dorado County Superior Court, Rule 7.10.12A.(8); California Rules of Court, Rule 7.955(a)(1).) The Petition does not include a Declaration by the attorney as required by California Rules of Court, Rule 7.955(c); however, counsel for the minor requests the Court allow him to discuss the fee arrangement *in camera* during the hearing in order to preserve confidentiality.

The minor's attorney also requests reimbursement for costs in the amount of $39,814.53. There are copies of bills substantiating the claimed costs attached to the Petition as required by Local Rules of the El Dorado County Superior Court, Rule 7.10.12A.(6).

With respect to the $399,317.09 due to the minor, the Petition requests that they be deposited into an insured account with Safe Credit Union, subject to withdrawal with court authorization. See attachment 18(b)(2), which includes the name and address of the depository, as required by Local Rules of the El Dorado County Superior Court**,** Rule 7.10.12A(7).

The court waives the minor's presence at the hearing, but orders that the guardian ad litem be present.

TENTATIVE RULING #1: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON FRIDAY, JANUARY 23, 2026 IN DEPARTMENT NINE.

IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM, PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.

2.	24CV1130	DAWSON v. EL DORADO IRRIGATION DISTRICT ET AL
Motion for Continuance		

This motion is made pursuant to California Rules of Court 3.1332, which requires good cause to continue a trial. In this case, counsel for Defendant ("EID") represents that good cause is present because EID's counsel has a conflict with the currently set trial date of March 10, 2026. That scheduling conflict arose when EID's motion for preference in a San Joaquin County case was granted on November 21, 2025, resulted in that trial being set for March 16, 2026. Because the law requires the other trial to be held within 120 days, the San Joaquin County trial cannot now be rescheduled.

The Plaintiff opposes the continuance, saying that she had offered to stipulate to continuing it to May or September, but Defendants insist that November is the only option because of EID's counsel's trial schedule. EID requests this Court to reschedule to the March 10, 2026, trial to November 16 or 23.

Plaintiff raises several objections to the continuance:

1. EID's associate attorney can try the case the primary attorney is unavailable
2. Plaintiff offered to stipulate to a continuance to May or September, 2026, but that EID insisted on a November date.
3. The case has been pending since May, 2024, and the additional delay will prejudice Plaintiff's case with respect to the memories of witnesses.
4. This trial had already been scheduled for March when EID moved for preferential trial date in another case and so knowingly created the conflict itself.

EID responds that the associate attorney has never tried an employment law case before and that EID has the right to have the case tried with eh counsel of its choice ; that the difference between September, to which Plaintiff as willing to stipulate, and November is only two months; that it was Plaintiff's counsel that requested trial preference in the San Joaquin County case and not EID's counsel; that Plaintiff's amended Complaint was not ultimately served until July, 2024, following a demurrer, and Answer was not filed until December, 2024; and that Plaintiff has not provided evidence of actual prejudice she will face as a result of the continuance.

California Rules of Court, Rule 3.1332 generally disfavors continuance absent an affirmative showing of good cause and requires each case to be considered on its own merits. Circumstances applicable to this case that may indicate good cause include the unavailability of trial counsel because of excusable circumstances Rule 3.1332(c)(3). The Court is also required to consider other factors, including:

a) Whether there was any previous continuance, extension of time, or delay of trial due to any party (Rule 3.1332(d)(2));
b) The availability of alternative means to address the problem that gave rise to the motion or application for a continuance (Rule 3.1332(d)(4));
c) The prejudice that parties or witnesses will suffer as a result of the continuance (Rule 3.1332(d)(5));
d) Whether trial counsel is engaged in another trial (Rule 3.1332(d)(5));
e) Whether the interests of justice are best served by a continuance, by the trial of the matter, or by imposing conditions on the continuance (Rule 3.1332(d)(10)); and
f) Any other fact or circumstance relevant to the fair determination of the motion or application (Rule 3.1332(d)(5)).

The Court finds that there is good cause to continue the trail date.

TENTATIVE RULING #2: DEFENDANT'S MOTION TO CONTINUE THE TRIAL DATE IS GRANTED. APPEARANCES ARE REQUIRED AT 8:30 A.M. ON FRIDAY, JANUARY 23, 2026, IN DEPARTMENT NINE, TO SET A TRIAL DATE.

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 621-6551 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07; SEE ALSO LEWIS V. SUPERIOR COURT, 19 CAL.4TH 1232, 1247 (1999).

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3.	**25CV2644**	**FLETTERICK v. FITZGERALD ET AL**
Motion to Stay Proceedings		

Defendant is being criminally charged for the same motor vehicle collision that gave rise to this civil lawsuit, and moves to stay the civil matter while the criminal matter proceeds. The principal concern is that Defendant will be required to decline to respond to civil discovery in order to preserve his rights under the Fifth Amendment of the Constitution.

In the alternative, Defendant requests the Court to stary discovery in the civil matter with conditions, *e.g.*, to allow limited discovery on issues that are not central to the criminal case such as insurance information, injuries, and damages.

Defendant cites the case of Pacers, Inc. v. Superior Ct., 162 Cal. App. 3d 686 (1984). That case considered whether the trial court had abused its discretion by sanctioning civil Defendants who also faced criminal charges, for refusing to respond to discovery based on assertion of Fifth Amendment rights. The court in that case prohibited the Defendants from testifying in the civil matter as a discovery sanction, effectively penalizing them for asserting a constitutional right. The appellate court found that this penalty was an abuse of the trial court's discretion, stating that:

> Where, as here, a defendant's silence is constitutionally guaranteed, the court should weigh the parties' competing interests with a view toward accommodating the interests of both parties, if possible. An order staying discovery until expiration of the criminal statute of limitations would allow real parties to prepare their lawsuit while alleviating petitioners' difficult choice between defending either the civil or criminal case. . . . This remedy is in accord with federal practice where it has been consistently held that when both civil and criminal proceedings arise out of the same or related transactions, an objecting party is generally entitled to a stay of discovery in the civil action until disposition of the criminal matter.

Pacers, Inc. v. Superior Ct., 162 Cal. App. 3d 686, 690 (1984).

The governing standard is articulated in Keating v. Off. of Thrift Supervision, 45 F.3d 322 (9th Cir. 1995). That court recognized that a stay of civil proceedings is not constitutionally required but may be imposed in the court's discretion where the interests of justice are implicated in light of the particular circumstances and competing interests in the case. Keating, 45 F.3d at 324. The specific considerations set forth in that opinion are: (1) the interest of the plaintiffs in proceeding expeditiously with this litigation or any particular aspect of it, and the potential prejudice to plaintiffs of a delay; (2) the burden which any particular aspect of the proceedings may impose on defendants; (3) the convenience of the court in the management of its cases, and the efficient use of judicial resources; (4) the interests of persons not parties to the

civil litigation; and (5) the interest of the public in the pending civil and criminal litigation. Id. at 325.

Plaintiffs oppose the motion, arguing that Keating does not require the trial court to impose a stay under these circumstances. Plaintiffs further argue that they will be prejudiced by the delay, which may include time for appeals. In particular, there are witnesses to the incident whose memories might fade over time. Further, Plaintiffs assert that Defendant can assert his Fifth Amendment rights on a question-by-question basis in discovery.

Plaintiffs cite Shell Oil Co. v. Altina Assocs., Inc., 866 F. Supp. 536 (M.D. Fla. 1994) to argue that a stay is not required where there are concurrent civil and criminal proceedings. However, that Court goes on to say that "a court may exercise its inherent discretionary authority to stay cases to control its docket and in the interests of justice and efficiency", and recognizes that the civil Defendant may risk adverse inferences in the civil case for refusing to testify by asserting Fifth Amendment rights and under those circumstances would not have any constitutional protection in the civil context. Ibid., 866 F. Supp. at 540.

Plaintiffs also rely on United States v. Lot 5, Fox Grove, Alachua Cnty., Fla., 23 F.3d 359 (11th Cir. 1994) for the proposition that there are very limited circumstances in which a civil court must stay the civil action. In that case, the criminal defendant argues that the civil court had abused its discretion in denying a stay of the civil case and the appellate court disagreed, holding that the civil court is only required to implement a stay under special circumstances require a stay in the interests of justice.

Plaintiffs also rely on United States v. Premises Located at Route 13, 946 F.2d 749 (11th Cir. 1991). However, that case also addresses the circumstance where a stay is required to protect a Defendant's constitutional rights because the nature of the civil proceedings necessarily force the civil Defendant to compromise their Fifth Amendment rights in the criminal case. That is not the case here.

Defendant is not arguing that his constitutional rights would be violated if this civil matter goes forward. Rather, he is arguing that for the benefit of judicial economy, instead of requiring the assertion of the Fifth Amendment privilege in response to any discovery request that might prejudice him in the criminal case, the matter be stayed until he is able to fully respond to civil discovery. Otherwise, he argues, discovery in this action will predictably be impeded by his assertion of his Fifth Amendment rights.[1]

[1] Evidence Code § 940: To the extent that such privilege exists under the Constitution of the United States or the State of California, a person has a privilege to refuse to disclose any matter that may tend to incriminate him.

The court finds that it is in the interests of judicial economy to allow the case to proceed, but to stay discovery directed at Defendant on any issue other than insurance coverage, injury and damages. The parties may proceed with discovery as to any witnesses other than Defendant Matthew Fitzgerald.

TENTATIVE RULING #3: THE COURT ORDERS A STAY OF DISCOVERY IN THIS MATTER WITH THE EXCEPTION OF ISSUES RELATED TO INSURANCE COVERAGE AND DAMAGES OR INJURIES, OR ANY DISCOVERY PROPOUNDED TO WITNESSES OR EXPERT WITNESSES OTHER THAN THE DEFENDANT MATTHEW FITZGERALD.

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4.	24CV1592	MAIER ET AL v. SPRINGER ET AL
Motion to Strike Cross-Complaint		

Defendants Norcal Gold, S. Naser, L. Naser and Calopiz-Springer ("Defendants" or "Cross-Complainants") filed a Cross-Complaint against Plaintiffs P. Maier, T. Maier, V. Maier and Clark ("Plaintiffs" or "Cross-Defendants"), who now move the strike the Cross-Complaint as untimely under the requirements of Code of Civil Procedure § 428.50, which provides as follows:

> (a) **A party shall file a cross-complaint against any of the parties who filed the complaint or cross-complaint against him or her before or at the same time as the answer to the complaint or cross-complaint.**
> (b) Any other cross-complaint may be filed at any time before the court has set a date for trial.
> (c) **A party shall obtain leave of court to file any cross-complaint except one filed within the time specified in subdivision (a) or (b).** Leave may be granted in the interest of justice at any time during the course of the action.

(Emphasis added).

Code of Civil Procedure § 417.5 requires an Answer to an amended Complaint to be filed within 30 days following service of the amended Complaint.

Plaintiffs filed their Complaint on July 24, 2024, a First Amended Complaint on February 20, 2025, and a Second Amended Complaint ("SAC") on August 11, 2025. The proof of service of the SAC indicates service was effectuated electronically on August 11, 2025. The Answer to this SAC would be due 30 days thereafter, on September 12, 2025.

Defendants filed an Answer on August 22, 2025, and subsequently filed their Cros-Complaint against Plaintiffs on October 1, 2025, after the statutory deadline.

The parties engaged in a meet and confer process regarding Plaintiff's intention to file this motion but did not resolve the issue.

In opposing the motion, Defendants argue that the motion to strike itself, which was filed on December 11, 2025, is untimely pursuant to Code of Civil Procedure § 435(b)(1), which states: "Any party, within the time allowed to respond to a pleading may serve and file a notice of motion to strike the whole or any part thereof, . . ." Accordingly, Defendants argue, Plaintiffs have waived their objection to the timeliness of the Cross-Complaint by filing an untimely motion.

To this assertion Plaintiffs respond that the time for filing the motion was extended by agreement during the meet and confer process. *See* Declaration of Kelly S. Moir, dated December 3, 2025, and filed December 11, 2025, ("Moir Declaration"). Paragraph 5 of the Moir Declaration states: "The parties agreed to the 30-day extension to continue their meet and

confer efforts, and Plaintiffs filed the Declaration of Demurring or Moving Party in Support of Automatic Extension on November 4, 2025." Exhibit 4 of the Moir Declaration is a letter from Defendants' counsel, dated October 31. 2025, discussing the proposed motion to strike and stating "we are willing to extend the time for response to 30 days after receipt of this meet and confer." To memorialize this agreement, Plaintiff's counsel Plaintiffs filed the Declaration of Demurring or Moving Party in Support of Automatic Extension on November 4, 2025.

Plaintiff's Reply argues that the stipulated extension of time to file the motion to strike was extended to December 11, 2025. However, Exhibit 4 of the Moir Declaration, a letter from Defendants' counsel, dated October 31, 2025, states that Defendants "are willing to extend the time for response to 30 days after receipt of this meet and confer." Plaintiffs' counsel acknowledged receipt of that letter in a responsive communication dated November 4, 2025. The Declaration of Demurring or Moving Party in Support of Automatic Extension specified that the original filing deadline for the motion was November 4, 2025. Thirty days after that date would be December 4, 2025, and the motion to strike was not filed and served until December 11, 2025.

The Plaintiffs' documents supporting this motion do not explain their conclusion that the 30-day extension dating from November 4, 2025, authorizes a motion filed and served on December 11, 2025. Plaintiffs' own failure to meet the deadline for filing this motion effectively waives their objection to Defendant's failure to meet the deadline for filing a Cross-Complaint.

TENTATIVE RULING #4: PLAINTIFFS' MOTION TO STRIKE THE CROSS-COMPLAINT IS DENIED.

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 621-6551 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07; SEE ALSO LEWIS V. SUPERIOR COURT, 19 CAL.4TH 1232, 1247 (1999).

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5.	22CV0861	DISCOVER BANK v. STANFIELD
Motion to Quash Service of Summons		

Defendant seeks to quash service of summons because she says she was not personally served. Instead, she her motion declares that the process server spoke only to her husband and did not leave any papers with him or on the property. She further declares that she did not receive service by substitute service, mail, certified mail, or by any other method.

The Proof of Service of Summons on file with the Court declares that personal service of the Summons and Complaint was made by a registered California process server on Defendant on May 24, 2025, and that her identity was confirmed by a neighbor. The process server stated that Defendant was a white female age 35-45 years old. Defendant does not take issue with this physical description.

Code of Civil Procedure § 415.10 governs the service of a Summons and Complaint by personal service: "A summons may be served by personal delivery of a copy of the summons and of the complaint to the person to be served. Service of a summons in this manner is deemed complete at the time of such delivery."

Code of Civil Procedure § 417.10 states: "Proof that a summons was served on a person within this state shall be made: (a) If served under Section 415.10 . . . , by the affidavit of the person making the service showing the time, place, and manner of service and facts showing that the service was made in accordance with this chapter. The affidavit shall recite or in other manner show the name of the person to whom a copy of the summons and of the complaint were delivered, . . ."

Evidence Code § 647 establishes a presumption affecting the burden of producing evidence, of the facts stated in the proof of service when the process server is registered with the State of California under Division 8 of the Business and Professions Code (Business and Professions Code §§ 22350, et seq.). *See also*, Floveyor Internat., Ltd. v. Superior Court 59 Cal.App.4th 789, 795 (1997).

The trial court is not required to accept a self-serving declaration contradicting the process server's statement. Am. Express Centurion Bank v. Zara, 199 Cal. App. 4th 383, 390 (2011).

TENTATIVE RULING #5: DEFENDANT'S MOTION TO QUASH SERVICE OF SUMMONS IS DENIED.

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6.	**25CV1207**	**LINDERMAN v. TRANSUE ET AL**
Compromise Minor's Claim		

This is a Petition to compromise a minor's claim. The Petition states the minor sustained burn injuries resulting from a gasoline explosion. Petitioner requests the court authorize a compromise of the minor's claim against defendant/respondent in the gross amount of $135,000.

The Petition states the minor incurred $6,677.81 in medical expenses that would be deducted from the settlement. Copies of invoices for the claimed medical expenses are attached to the Petition as required by Local Rules of the El Dorado County Superior Court, Rule 7.10.12A.(6).

The Petition states that the minor has fully recovered and there are no permanent injuries. A doctor's report concerning the minor's condition and prognosis of recovery is attached, as required by Local Rules of the El Dorado County Superior Court, Rule 7.10.12A.(3).

The minor's attorney requests attorney's fees in the amount of $33,672.39, which represents 25% of the gross settlement amount. The court uses a reasonable fee standard when approving and allowing the amount of attorney's fees payable from money or property paid or to be paid for the benefit of a minor or a person with a disability. (Local Rules of the El Dorado County Superior Court, Rule 7.10.12A.(8); California Rules of Court, Rule 7.955(a)(1).) The Petition does include a Declaration by the attorney as required by California Rules of Court, Rule 7.955(c).

The minor's attorney also requests reimbursement for costs in the amount of $310.45. There are copies of bills substantiating the claimed costs attached to the Petition as required by Local Rules of the El Dorado County Superior Court, Rule 7.10.12A.(6).

With respect to the $94,339.35 due to the minor, the Petition requests that $10,000 be deposited into an insured account with Golden One Credit Union, subject to withdrawal with court authorization. See attachment 18(b)(2), which includes the name and address of the depository, as required by Local Rules of the El Dorado County Superior Court**,** Rule 7.10.12A(7). The balance, $84,339.35, would be deposited into a structured settlement annuity with New York Life Insurance Company.

The court waives the minor's presence at the hearing, but orders that the guardian ad litem be present.

TENTATIVE RULING #6:

APPEARANCES ARE REQUIRED AT 8:30 A.M. ON FRIDAY, JANUARY 23, 2026 IN DEPARTMENT NINE.

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7.	**23CV0084**	**PICCINONNO v. TURNEY**
Motion to Compel Discovery / Sanctions		

Defendant seeks an Order compelling discovery responses to Form Interrogatories, Special Interrogatories, Requests for Production of Documents and a Request for Statement of Damages that were propounded to Plaintiff on September 24, 2024. Defendant's counsel asserts that on November 6 and November 13, 2024, and again on December 6, 2024, he sent meet and confer communications to Plaintiff's counsel. Declaration of Cameron L. Cobden, dated December 10, 2025 ("Cobden Declaration"), Exhibit B. However, to date no discovery responses have been received. Cobden Declaration, para. 5.

As a consequence of Plaintiff's failure to respond to discovery Defendant argues that all objections have been waived pursuant to Code of Civil Procedure §§ 2030.290(a), 2031.300(a). Accordingly, Defendant requests this Court to order Plaintiff to provide discovery responses within 15 days, pursuant to Code of Civil Procedure §§ 2030.290(b), 2031.300(b).

Further, Defendant seeks sanctions in the amount of $800 for misuse of discovery. Code of Civil Procedure § 2023.010(d); 2023.030(a).

TENTATIVE RULING #7: DEFENDANT'S MOTION IS GRANTED. PLAINTIFF IS ORDERED TO PROVIDE RESPONSES TO FORM INTERROGATORIES, SPECIAL INTERROGATORIES, REQUESTS FOR PRODUCTION OF DOCUMENTS AND A REQUEST FOR STATEMENT OF DAMAGES WITHIN 15 DAYS OF SERVICE OF THE SIGNED ORDER. SANCTIONS ARE AWARDED IN THE AMOUNT OF $800, TO BE PAID WITHIN 15 DAYS OF SERVICE OF THE SIGNED ORDER.

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8.	**22CV1608**	**CRAMER v. NORTON ET AL**
Demurrer		

This is an action filed on November 14, 2022, regarding a dispute between neighbors over an alleged encroachment. The original Complaint requested that the Court order the encroachment to be removed, and Defendant Norton filed a Cross-Complaint requesting the Court to impose an equitable easement.

Request for Judicial Notice

FATC has filed a Request for the court to take judicial notice of the pleadings and other documents on file with the Court in this action. Judicial notice is a mechanism which allows the court to take into consideration matters which are presumed to be indisputably true. California Evidence Code Sections 451, 452, and 453 collectively govern the circumstances in which judicial notice of a matter may be taken. Evidence Code Section 452 lists matters of which the court may take judicial notice, including "records of (1) any court in this state or (2) any court of record of the United States." Evidence Code § 452(d). A trial court is required to take judicial notice of any matter listed in section 452 if a party requests it and gives the other party sufficient notice to prepare to meet the request. Evidence Code § 453. Accordingly, Defendant's request for judicial notice is granted.

Analysis

The First Cause of Action in this matter to be directed against Defendant First American Title ("FATC") alleges Breach of Contractual Duty to Pay Covered Claim was added to the First Amended Complaint, filed on June 17, 2024. FATC's September 4, 2024, demurrer to this cause of action was sustained because Plaintiff had failed to request leave of Court to amend the Complaint after an Answer had already been filed. However, the Court, in recognition of the liberal policy in favor of allowing amendment of pleadings, granted Plaintiff leave to amend by March 10, 2025.

Plaintiff filed a Third Amended Complaint on March 10, 2025. Before the demurrer to that Complaint could be heard, he filed a Fourth Amended Complaint on June 9, 2025, without leave of the Court. FATC demurred to the causes of action directed to FATC in the Third Amended Complaint, Breach of Contractual Duty to Pay Covered Claim and Conspiracy/Fraud/Civil Rights, and the Court again sustained the demurrer with leave to amend. The Court also struck the Fourth Amended Complaint at the same August 8, 2025, hearing.

The Fifth Amended Complaint ("5AC") was filed on August 22, 2025, and it is against this pleading that FATC's most recent demurrer is directed.

FATC's instant demurrer to the 5AC, fled on August 22, 2025, is to the First Cause of Action for Constructive Fraud. In requesting that the Court sustain the demurrer without leave to amend, FATC notes that this is the third demurrer it has filed in this action.

FATC argues that the 5AC does not contain any facts to support the elements of Constructive Fraud. Further, FATC notes that the Court did not grant leave for Plaintiff to add new causes of action when it granted leave to amend the Third Amended Complaint. Finally, FATC argues that fraud must be pleaded with specificity.

The Third Amended Complaint did not contain a cause of action for Constructive Fraud, and the Court's Minute Order, dated August 8, 2025, which granted FATC's demurrer to the Third Amended Complaint, did not authorize the addition of new causes of action.

The Plaintiff has repeatedly enjoyed the benefit of the liberal policy allowing amendment of deficient pleadings in this matter. However, Plaintiff's addition of ever-changing causes of action against FATC defeats the purpose of that policy. The addition of new causes of action in each new iteration of the Complaint amounts to an unauthorized fishing expedition that has prevented this matter from proceeding and prejudices the other parties in the case, and was not authorized by the Court's Order allowing for an amended pleading.

> Following an order sustaining a demurrer or a motion for judgment on the pleadings with leave to amend, the plaintiff may amend his or her complaint only as authorized by the court's order. (*People ex rel. Dept. Pub. Wks. v. Clausen* (1967) 248 Cal.App.2d 770, 785, 57 Cal.Rptr. 227 [leave to amend complaint does not constitute leave to amend to add new defendant].) The plaintiff may not amend the complaint to add a new cause of action without having obtained permission to do so, unless the new cause of action is within the scope of the order granting leave to amend.

Harris v. Wachovia Mortg., FSB, 185 Cal. App. 4th 1018, 1023 (2010).

> The granting of leave to amend after a demurrer is sustained on one ground does not give the plaintiff a license to add any possible cause of action that might not be subject to dismissal on that ground. Otherwise, there would be virtually no limitation on amendments following the sustaining of a demurrer.

Zakk v. Diesel, 33 Cal. App. 5th 431, 456 (2019).

FATC's demurrer to the Fifth Amended Complaint is sustained.

TENTATIVE RULING #8: DEFENDANT FIRST AMERICAN TITLE'S REQUEST FOR JUDICIAL NOTICE IS GRANTED. DEFENDANT FIRST AMERICAN TITLE'S DEMURRER TO THE FIRST CAUSE OF ACTION OF THE FIFTH AMENDED COMPLAINT IS SUSTAINED WITHOUT LEAVE TO AMEND.

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 621-6551 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07; SEE ALSO LEWIS V. SUPERIOR COURT, 19 CAL.4TH 1232, 1247 (1999).

NOTICE TO ALL PARTIES OF A REQUEST FOR ORAL ARGUMENT AND THE GROUNDS UPON WHICH ARGUMENT IS BEING REQUESTED MUST BE MADE BY TELEPHONE OR IN PERSON BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; EL DORADO COUNTY LOCAL RULE 8.05.07. PROOF OF SERVICE OF SAID NOTICE MUST BE FILED PRIOR TO OR AT THE HEARING.

LONG CAUSE HEARINGS MUST BE REQUESTED BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED AND THE PARTIES ARE TO PROVIDE THE COURT WITH THREE MUTUALLY AGREEABLE DATES ON FRIDAY AFTERNOONS AT 2:30 P.M. LONG CAUSE ORAL ARGUMENT REQUESTS WILL BE SET FOR HEARING ON ONE OF THE THREE MUTUALLY AGREEABLE DATES ON FRIDAY AFTERNOONS AT 2:30 P.M. THE COURT WILL ADVISE THE PARTIES OF THE LONG CAUSE HEARING DATE AND TIME BY 5:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. PARTIES MAY PERSONALLY APPEAR AT THE HEARING.

IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM, PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.

9.	24CV2686	SACRAMENTO MUNICIPAL UTILITY DISTRICT v. PIERSON ET AL
Demurrer		

Plaintiff/Cross-Defendant Sacramento Municipal Utility District ("SMUD") demurs to the First Cause of Action in Defendant/Cross-Complainants Second Amended Cross-Complaint ("SACC") for Inverse Condemnation.

SMUD's demurrer to the same cause of action in the First Amended Cross-Complaint ("FACC") was sustained by the Court with leave to amend following hearing on August 15, 2025. The Court concluded that the FACC did not contain sufficient allegations to support an inverse condemnation claim. The Tentative Ruling stated:

> The Court agrees with SMUD's assertion that Cross-Complainants need to plead that an inherent risk of SMUD's electric transmission line project caused their alleged harm, and that simply alleging that SMUD's maintenance activities for the line caused harm is not enough.

The SACC was filed on September 8, 2025.

The Declaration of Ralph R. Nevis, dated October 10, 2025, ("Nevis Declaration"), Exhibit 3 is a revision marked comparison of the differences between the FACC and the SACC. This comparison shows that the following paragraphs 20, and 24-33 of the SACC are added to the most recent version of the Cross-Complaint:

> 20. "Piersons bring this claim under Article I, Section 19 of the California Constitution, which provides that private property may be taken or damaged for public use only when just compensation, ascertained by a jury unless waived, has first been paid to, or into court for, the owner.
>
> 24. The cost of damage suffered by Piersons can be better absorbed by taxpayers as a whole, with less hardship, than if absorbed by Piersons alone. Piersons receive no benefits offsetting or otherwise) from SMUD above-noted public improvements, public property, actions or inactions, any different than as received by the general public. There is no feasible alternative with less risk of damage to Piersons' property. Piersons' damage is not a normal incident to property ownership, and if uncompensated, Piersons will contribute more than his fair share to the public undertaking. SMUDs' above acts and/or omissions, as deliberately planned and carried out by them, proximately caused direct physical damage to be suffered by Piersons.
>
> 25. SMUDs' plan, design, approval, construction, operation, and maintenance of the easement at issue, were the actual cause of damage to Piersons' property and were substantial causes to the damage to Pierson's property.

26. The cause and effect relationship between the plan, design, approval, construction, operation, and maintenance of SMUDs removal of trees substantially contributed to the destruction of property marker and removal of a privacy barrier which previously prevented trespassers from entering the Piersons' property.

27. The plan, design, approval, construction, operation, and maintenance of the easement at issue resulted in a substantial diminishment of Piersons' property value.

28. No other forces or factors (except for the plan, design, approval, construction, operation, and maintenance of the easement at issue caused the damages to plaintiffs property.

29. SMUD failed to act reasonably in the plan, design, approval, construction, operation, and maintenance of easement at issue and other trespasses, and damage to Piersons' property was a foreseeable result of SMUDs' acts and omissions.

30. SMUD's 'plan, design, approval, construction, operation, and maintenance of easement and other trespasses were inherent dangers and the damages were caused by the wrongful plan or character of the work.

31. SMUDs' plan, design, approval, construction, operation, and maintenance of easement, and other trespasses created a pronounced likelihood of damage to Piersons' property.

32. The damage to Pierson's property was substantially caused by an inherent risk presented by SMUDs' plan, design, approval, construction, operation, and maintenance of easement and other trespasses, all public improvements.

33. No acts of Piersons contributed in any way to the damages to Piersons' property.

* * *

Just as in the case of its demurrer against the FACC, SMUD demurs to the SACC's First Cause of Action on the grounds that it fails to state a cause of action for inverse condemnation under the California Constitution and applicable case law, because it does not allege any harm caused by an inherent risk of SMUD's power line. SMUD argues that the inherent risk that is pertinent to the cause of action is that associated with the operation of the electrical transmission line; but that the SACC only alleges harm caused by maintenance of the line.

Standard of Review

A demurrer tests the sufficiency of a complaint by raising questions of law. (*Rader Co. v. Stone* (1986) 178 Cal.App.3d 10, 20, 223 Cal.Rptr. 806.) In determining the merits of a demurrer, all material facts pleaded in the complaint and those that arise by reasonable implication, but not conclusions of fact or law, are deemed admitted by the demurring

> party. (*Moore v. Conliffe, supra,* 7 Cal.4th at p. 638, 29 Cal.Rptr.2d 152, 871 P.2d 204; *Interinsurance Exchange v. Narula, supra,* 33 Cal.App.4th at p. 1143, 39 Cal.Rptr.2d 752.) The complaint must be construed liberally by drawing reasonable inferences from the facts pleaded. (*Flynn v. Higham* (1983) 149 Cal.App.3d 677, 679, 197 Cal.Rptr. 145.)

Rodas v. Spiegel, 87 Cal. App. 4th 513, 517 (2001).

The standard that governs this dispute is articulated in the case of City of Oroville v. Superior Court, 7 Cal.5th 1091 (2019). That case considered whether the release of raw sewage from a sewer system, in other words, a failure of the publicly operated facility to function as intended, was an "inherent risk" of the public improvement.

> To succeed on an inverse condemnation action, a plaintiff must ordinarily show . . . that the damage to private property was substantially caused by inherent risks associated with the design, construction, or maintenance of the public improvement.

City of Oroville v. Superior Ct., 7 Cal. 5th 1091, 1098 (2019).

The Oroville court concluded that the failure of a system is not considered part of the inherent risk of a publicly operated system for the purpose of an inverse condemnation claim.

Both the FACC and the SACC's general allegations recited the alleged physical alterations to Cross-Complainants' property that resulted from SMUD's tree removal, specifically, depositing debris into a creek on Cross-Complainants' property, removing shade cover at the expense of the habitat within and around the creek, altering the flow of water in the creek, as well as changing the configuration of the banks of the creek. SACC, para. 11-12. These allegations of property damage were contained in the FACC and are unchanged in the SACC.

The FACC's allegations specific to the First Cause of Action that are no longer included in the SACC include 1) the applicable legal standard for inverse condemnation (FACC, para. 17); 2) a statement that the damage to their property was proximately caused by SMUD's maintenance of the overhead lines (FACC, para. 19); 3) a statement that the tree removal was for a public use (FACC, para. 20); 4) a recitation of the duty of an easement holder to maintain the easement (FACC, para. 22); and 5) legal citations for the proposition that the owner of an easement is responsible for maintaining it (FACC, para. 23).

The SACC newly adds paragraphs 20, 24-33, quoted above, which allege that the actual and substantial cause of the damage and diminution in value to Cross-Complainants' property was SMUD's maintenance activities within the easement (SACC, paras. 25-27), which in turn is an inherent risk of SMUD's design, operation and maintenance of the power lines. SACC, para. 32.

The public facility that SMUD is operating within Cross-Complainants' easement consists of overhead power lines. SMUD argues that only an inherent risk posed by the power lines themselves, such as electrocution or wildfire, is compensable under the Oroville standard. SMUD characterizes the consequences of tree removal as "mere maintenance activities" that "are not inherent risks of an electrical transmission line project", according to the Oroville standard. Instead, SMUD argues, "[t]he alleged harms arise instead from ancillary day-to-day maintenance activities in support of the project." Memorandum of Points and Authorities in Support of Demurrer, page 3:17-18.

SMUD's argument mis-states the Oroville requirement. SMUD cites the case for the proposition that only the operation of the public facility, not the related maintenance activities, can support an inverse condemnation action. But Oroville did not distinguish between operation activities and maintenance activities. Rather, it held that a malfunction of the facility cannot be understood as an inherent risk, precisely because it outside the parameters of how the facility can be expected to operate. As a hypothetical example, a private property next to a train track could not make a claim inverse condemnation for the existence of an adjacent railway based on damages caused to private property from a train derailment. When something does go wrong, it may come within some negligence cause of action, but does not fit within the theory that negative effects on private property that can reasonably be anticipated from the intended operation of the public facility should be compensated under an inverse condemnation theory.

The Court in Oroville expressly recognized this distinction when it quoted *Customer Co.*, *supra*, 10 Cal.4th at p. 382:

> "[T]he destruction or damaging of property is sufficiently connected with "public use" as required by the Constitution, if the injury is a result of dangers *inherent in the construction of the public improvement* **as distinguished from dangers *arising from the negligent operation of the improvement*'** . . .

City of Oroville v. Superior Ct., 7 Cal. 5th 1091, 1104 (2019) (citations omitted, emphasis added).

The removal of vegetation, including trees, constitutes regular maintenance that is well within the normal activities that can be expected near publicly operated power transmission lines. *See*, SMUD Complaint, para. 11: "SMUD has undertaken certain electric transmission line maintenance activities on [Cross-Complainants'] Property, including vegetation management . . . in accordance with transmission line maintenance regulations and requirements." The resulting debris, changes in the configuration of the landscape around removed trees and loss of shade are all normal and expected consequences of tree removal. Negative consequences to the surrounding property from tree removal from around power lines are, then, inherent risks of necessary maintenance for the operation of power lines.

The Oroville Court recognized that maintenance activities are properly included within the boundaries of potential "inherent risks" of the facility: "[T]he 'inherent risk' aspect of the inverse condemnation inquiry is not limited to deliberate design or construction of the public improvement. It also encompasses risks from the maintenance or continued upkeep of the public work." City of Oroville v. Superior Ct., 7 Cal. 5th a 1107. The hypothetical example of potential damages caused by maintenance posed by the Oroville Court was when the public entity neglects maintenance for cost-saving reasons. This was a hypothetical example of potential damages to property that could be caused by maintenance, but besides being *dicta*, it was not intended to limit potential inherent risks to lack of maintenance. Active maintenance activities may also fall within the concept of "inherent risk."

> The damage must be the " '*necessary* or *probable* result' of the improvement, or if 'the *immediate, direct, and necessary effect*' thereof was to produce the damage." (Van Alstyne, *supra*, 20 Hastings L.J at p. 436, fn. omitted, italics added.) Rather than training attention on the mere presence of causation, our cases have focused instead on whether there is proof that the damages "followed in the normal course of subsequent events" and were "predominantly" produced by the improvement.
>
> City of Oroville v. Superior Ct., 7 Cal. 5th 1091, 1108, 446 P.3d 304, 314 (2019)

As discussed above, the types of damages alleged by Cross-Complainants, disturbances of landscape, deposition of debris, alteration of waterways and loss of shade and habitat all might be expected to follow in the normal course of vegetation removal, which is a maintenance activity "in accordance with transmission line maintenance regulations and requirements."

SMUD further argues that the property owners "have already been compensated" for the easement SMUD acquired in part by grant deed in 1959 and in part by an Order of Condemnation in 1966 (SACC para. 7) and therefore cannot maintain an inverse condemnation action for rights SMUD already owns. This is an argument that was raised for the first time in SMUD's Reply brief. Reply Brief at page 4:4-5:1.

This is also an argument that is raised in SMUD's Complaint against Cross-Complainants, but it is not an issue before the Court in this demurrer to First Cause of Action of the SACC.

> As we have held on repeated occasions, " ' "Obvious considerations of fairness in argument demand that the appellant present all of his points in the opening brief. To withhold a point until the closing brief would deprive the respondent of his opportunity to answer it or require the effort and delay of an additional brief by permission. Hence the rule is that points raised in the reply brief for the first time will not be considered, unless good reason is shown for failure to present them before." '

Proctor v. Vishay Intertechnology, Inc., 213 Cal. App. 4th 1258, 1273–74 (2013) (citations omitted).

If the existence of SMUD's easements constitute a bar to the inverse condemnation claim, it is an issue that may be raised at a different stage of these proceedings. For the purpose of this demurrer, the Court finds that the SACC includes allegations SMUD's activities that are representative of inherent risks of SMUD's facilities were a substantial cause of property damages alleged by Cross-Complainants in the SACC. This is sufficient to support the First Cause of Action for inverse condemnation at this stage of the proceeding.

TENTATIVE RULING #9: CROSS-DEFENDANT'S DEMURRER TO THE FIRST CAUSE OF ACTION IN THE SECOND AMENDED CROSS-COMPLAINT IS OVERRULED.

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 621-6551 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07; SEE ALSO LEWIS V. SUPERIOR COURT, 19 CAL.4TH 1232, 1247 (1999).

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