

**Judge Benson – Law & Motion – Wednesday January 29, 2025 @ 9:00 AM
TENTATIVE RULINGS**

1-2. 22CV00348 AquAlliance et al v. Biggs-West Gridley Water District et al.

EVENT: (1) Defendants and Respondents' Biggs-West Gridley Water District, Butte County, Butte Water District, City Of Biggs, City of Gridley, Colusa Groundwater Authority, Glenn County, Reclamation District 1004, Reclamation District 2106, Richvale Irrigation District and Western Canal Water District's Demurrer to Plaintiffs' First Amended Complaint in Validation and Petition for Writ of Mandate

(2) Defendants and Respondents' Biggs-West Gridley Water District, Butte County, Butte Water District, City Of Biggs, City Of Gridley, Colusa Groundwater Authority, Glenn County, Reclamation District 1004, Reclamation District 2106, Richvale Irrigation District and Western Canal Water District's Motion to Strike Plaintiffs' First Amended Complaint in Validation and Petition For Writ of Mandate

On the Court's Motion, the hearing is continued to March 19, 2025 at 9:00am.

Both Plaintiffs' and Defendants' Requests for Judicial Notice Are GRANTED.

The FAC relies on two legal theories – violations of Water Code § 10727.2 and the Public Trust Doctrine. The Court is inclined to find Judicial Abstention is appropriate concerning the Water Code § 10727.2 challenges.

Water Code § 10733. Department review of plans

(a) The department shall periodically review the groundwater sustainability plans developed by groundwater sustainability agencies pursuant to this part to evaluate whether a plan conforms with Sections 10727.2 and 10727.4 and is likely to achieve the sustainability goal for the basin covered by the groundwater sustainability plan.

[Emphasis Added]

Abstention is the preferred remedy where a trial court order would improperly interfere with authority delegated by the Legislature. (*Samura v. KaiserFound. Health Plan, Inc.* (1993) 17 Cal.App.4th 1284, 1301–1302) Here, the plain language of section 10733 provides the department with exclusive authority concerning section 10727.2 compliance. Thus, any finding by this Court of non-compliance would necessarily interfere with the department's findings.

While it is true that the Legislature has authorized validation actions pursuant to Water Code § 10726.6, § 10733 specifically authorizes DWR to determine compliance of another specific statute – §10727.2. When statutes conflict, the more specific statute controls. (See *San*

Bernardino City Unified School Dist. v. State Allocation Bd., (2022) 79 Cal. App. 5th 12, 20-21)

Thus, to the extent there may be a conflict between § 10733 authorizing DWR to determine compliance with §§ 10727.2 and 10727.4; and § 10726.6 (authorizing validation actions), § 10733 controls because it specifically addresses § 10727.2.

Regarding the Public Trust Doctrine, Defendant is technically correct that the allegations exceeded the scope of the previous order. The Public Trust Doctrine is a common law legal principle, and the previous order permitted identification of statutory violations. However, in the interests of judicial efficiency and in consideration of the liberal policy favoring amendment, the Court is permitting the Public Trust Doctrine allegations.

The moving papers also challenge the Public Trust Doctrine allegations for failure to sufficiently allege exhaustion of remedies. The Court is not persuaded by Defendants' arguments for two reasons.

First, Defendants were put on notice concerning the potential issue of the Public Trust Doctrine. Included in Plaintiffs' Request for Judicial Notice is a letter from the Department of Fish and Wildlife which specifically addressed the Public Trust Doctrine. The rationale for exhaustion is that the agency is entitled to learn the contentions of interested parties before litigation is instituted. (*Mani Brothers Real Estate Group v. City of Los Angeles*, (2007) 153 Cal. App. 4th 1385). The Fish and Wildlife letter satisfies the purpose of the statute.

Defendants cite no authority requiring privity between the party who raised the issue during the administrative process and the party who commenced proceedings. Although CEQA requires such privity, this is not a CEQA case. The Court is not aware of an analogous statute applicable in this context.

Secondly, *Nat'l Audubon Soc'y v. Superior Court*, (1983) 33 Cal. 3d 419 suggests that the exhaustion of remedies requirement does not apply to Public Trust Doctrine disputes where the Court has concurrent original jurisdiction. In *Audubon*, the Supreme Court referenced Water Code sections relating to water rights applicable to the dispute and determined that because the applicable statutes permitted commencement of an action in the Superior Court, the Court had original concurrent jurisdiction over the Public Trust Doctrine issue.

The Court finds the situation in *Audubon* analogous to these circumstances. SGMA contains a chapter on water rights adjudication, and Water Code § 10737 provides:

Except as provided in this chapter, an adjudication action to determine rights to groundwater in a basin shall be conducted in accordance with the Code of Civil Procedure, including pursuant to Chapter 7 (commencing with Section 830) of Title 10 of Part 2 of that code.

CCP § 834. Determination of all groundwater rights of basin

(a) In a comprehensive adjudication conducted pursuant to this chapter, the court may determine all groundwater rights of a basin, whether based on appropriation, overlying right, or other basis of right, and use of storage space in the basin.

As in *Audubon*, the applicable statutes here appear to provide the Court with original concurrent jurisdiction concerning water rights disputes. Because *Audubon* has determined water rights disputes encompass the Public Trust Doctrine, the same reasoning in *Audubon* applies to this case. The Court finds it has concurrent original jurisdiction on the issue and therefore no exhaustion requirement exists.

Finally, Defendants challenge the addition of the Public Trust Doctrine on notice grounds. The Court finds the arguments unpersuasive. Defendants cite no authority requiring an amended summons when the pleading adds new causes of action. To the extent Defendants complain that they were surprised by the amendments, that implicates the exhaustion arguments analyzed *supra*.

The Court invites further briefing on whether the FAC sufficiently alleges facts supporting a cause of action premised on the Public Trust Doctrine. Additionally, the Court is interested in whether reverse validation or mandamus is the proper mechanism for a Public Trust Doctrine action, noting precedent indicates mandamus and validation are mutually exclusive. The Court is inclined to find mandamus is the proper mechanism.

Defendants' brief shall be due no later than February 11, 2025. Plaintiffs' opposing brief is due no later than February 21, 2025. Defendants' reply brief is due no later than March 4, 2025.

3. 24CV00300 Matthews, Rhonda v. Groteguth, Kutrice et al.

EVENT: Demurrer

The Demurrer is OVERRULED.

Defendants' Request for Judicial Notice is DENIED as it pertains to the "vehicle registration report." The document does not qualify for judicial notice under Evidence Code §§ 451 and 452. The hearing on demurrer may not be turned into a contested evidentiary hearing through the guise of having the court take judicial notice of documents whose truthfulness or proper interpretation are disputable. (*Fremont Indemnity Co. v. Fremont General Corp.*, (2007) 148 Cal. App. 4th 97, 113)

A demurrer tests the pleadings alone and not the evidence or other extrinsic matters. (*SKF Farms v. Superior Court* (1984) 153 Cal.App.3d 902, 905) The declaration of Brenda Groteguth is extrinsic evidence and cannot be considered on demurrer.

Defendant Brenda Groteguth shall file an answer within 20 days of this order.

Plaintiff shall prepare and submit the form of order within 2 weeks.

4. 24CV02220 Thurman, Amy v. Solari Enterprises, Inc.

EVENT: Demurrer

Special Demurrer

The demurrer is overruled. Demurrers for uncertainty are disfavored, and are granted only if the pleading is so incomprehensible that a defendant cannot reasonably respond. (*A.J. Fistes Corp. v. GDL Best Contractors, Inc.*, (2019) 38 Cal. App. 5th 677, 695) A demurrer for uncertainty is strictly construed, even where a complaint is in some respects uncertain, because ambiguities can be clarified under modern discovery procedures.

Here, the Complaint identifies “Defendants” as including Defendant Solari, and alleges Defendant Solari employed Plaintiff.

Weil & Brown California Practice Guide (The Rutter Group) (2022) Civil Procedure Before Trial, Demurrer, [7:44]

No matter how unlikely: The sole issue raised by a general demurrer is whether the facts pleaded state a valid cause of action – not whether they are true. Thus, no matter how unlikely or improbable, plaintiff’s allegations must be accepted as true for the purpose of ruling on demurrer. [*Del E. Webb Corp. v. Structural Materials Co.* (1981) 123 CA3d 593, 603]

The allegations are sufficient to meet the special demurrer standard.

General Demurrer

The demurrer is overruled. The Complaint sufficiently alleges facts concerning alter ego liability. The Court declines ruling on the employment issues raised in the motion.

Defendant cites no authority, nor is the Court aware of any authority requiring Plaintiff to plead alter ego allegations with specificity. None of the cases cited by Defendant involve challenges to pleadings – they were in the context of evidentiary adjudications.

Less specificity is required if the defendant would likely have greater knowledge of the facts than the plaintiff. (See *Chapman v. Skype Inc.* (2013) 220 Cal.App.4th 217, 231) Alter ego matters fall within this category.

Defendant shall file an answer within 20 days of this ruling.

Plaintiff shall prepare and submit a form of order within 2 weeks.

5. **24CV02374 Wells Fargo Bank, N.A. v. Coulon, Shelby E**

EVENT: Motion for Order Deeming the Truth of the Matters Specified in Plaintiff's Request for Admissions as Admitted

Motion for Order Deeming the Truth of the Matters Specified in Plaintiff's Request for Admissions as Admitted is GRANTED. The Court will sign the proposed order.

6. **24CV03178 Quality Loan Service Corp. v. All Claimants to Surplus Funds, et al.**

EVENT: Motion to Enforce Claim for Surplus Funds After Trustees Sale

Motion to Enforce Claim for Surplus Funds After Trustees Sale is GRANTED. The Court will sign the proposed order.

7. **24CV03615 In re: Olivas, Ethan Gabriel**

EVENT: Change of Name (adult)

There is no proof of publication on file. Upon the filing of the proof of publication, the Court will sign the decree provided.

8. **24CV04030 In re: Cook, Ryeon Eric**

EVENT: Change of name (adult)

The Court is in receipt of the proof of publication and will sign the decree provided.

9. **24CV04108 In re: Clark, Kevin Alen**

EVENT: Change of name (adult)

There is no proof of publication on file. Upon the filing of the proof of publication, the Court will sign the decree provided.

10. **24CV04209 In re: Schwab, Lawrence Lee**

EVENT: Change of name (adult)

The Court is in receipt of the proof of publication and will sign the decree provided.

11. **159524 EGC Financial v. Castagna, Arron J**

EVENT: Opposition to Claim of Exemption

The Court will conduct a hearing.