

Tentative Rulings for April 22, 2026
Department 503

For any matter where an oral argument is requested and any party to the hearing desires a remote appearance, such request must be timely submitted to and approved by the hearing judge. In this department, the remote appearance will be conducted through Zoom. If approved, please provide the department's clerk a correct email address. (CRC 3.672, Fresno Sup.C. Local Rule 1.1.19)

There are no tentative rulings for the following cases. The hearing will go forward on these matters. If a person is under a court order to appear, he/she must do so. Otherwise, parties should appear unless they have notified the court that they will submit the matter without an appearance. (See California Rules of Court, rule 3.1304(c).) *The above rule also applies to cases listed in this "must appear" section.*

The court has continued the following cases. The deadlines for opposition and reply papers will remain the same as for the original hearing date.

25CECG00844 *Umpqua Bank v. Sran Family Orchards, Inc.* is continued to Wednesday, May 20, 2026, at 3:30 p.m. in Department 503.

24CECG05339 *Yolanda Gonzalez v. Browning Contractors, Inc.* is continued to Thursday, April 30, 2026, at 3:30 p.m. in Department 503.

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Tentative Ruling

Re: ***Atkinson v. Campbell et al.***
Superior Court Case No. 25CECG03763

Hearing Date: April 22, 2026 (Dept. 503)

Motion: by Defendant Real Estate Source, Inc. on Demurrer to Complaint and Motion to Strike

Tentative Ruling:

To sustain, without leave to amend. (Code Civ. Proc., § 430.10, subd. (e).) Defendant Real Estate Source, Inc. is directed to file a proposed judgment within five days of service of the order by the clerk.

To take the motion to strike off calendar, as no moving papers have been filed.

Explanation:

On August 12, 2025, plaintiffs Robert Atkinson and Wanda Atkinson (together "Plaintiffs") filed a Complaint against defendants Matthew Campbell, Ampez Rehab Investments, and Real Estate Source Inc. alleging two causes of action for breach of contract and fraud. On December 30, 2025, defendant Real Estate Source Inc. ("Defendant") filed the present demurrer to the Complaint as to each cause of action, generally, for failure to allege facts sufficient to state a claim for each cause of action and, specially, for uncertainty.

The function of a demurrer is to test the sufficiency of a plaintiff's pleading by raising questions of law. (*Plumlee v. Poag* (1984) 150 Cal.App.3d 541, 545.) The test is whether plaintiff has succeeded in stating a cause of action; the court does not concern itself with the issue of plaintiff's possible difficulty or inability in proving the allegations of his complaint. (*Highlanders, Inc. v. Olsan* (1978) 77 Cal.App.3d 690, 697.) In assessing the sufficiency of the complaint against the demurrer, we treat the demurrer as admitting all material facts properly pleaded, bearing in mind the appellate courts' well established policy of liberality in reviewing a demurrer sustained without leave to amend, liberally construing the allegations with a view to attaining substantial justice among the parties. (*Glaire v. LaLanne-Paris Health Spa, Inc.* (1974) 12 Cal.3d 915, 918.) In ruling on a demurrer, the court can consider only matters that appear on the face of the complaint or matters outside the pleading that are judicially noticeable. (*Blank v. Kirwan* (1985) 39 Cal.3d 311, 318.)

Uncertainty

A special demurrer for uncertainty will be sustained if the complaint is "ambiguous and unintelligible." (Code Civ. Proc., § 430.10, subd. (f).) This is applicable when it 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.) The demurrer must specify in

particular what aspects of a complaint was uncertain. (*Fenton v. Groveland Community Services Dist.* (1982) 135 Cal.App.3d 797, 809, disapproved on other grounds by *Katzberg v. Regents of University of California* (2002) 29 Cal.4th 300, 328.)

Here, Defendant fails to specify which aspects of, or particular language in, the Complaint that are ambiguous or unintelligible. Thus, the special demurrer of uncertainty as to both causes of action, for breach of contract and fraud, are overruled. (Code Civ. Proc., § 430.10, subd. (f).)

Sufficiency of Facts

First, Defendant challenges the cause of action, for breach of contract. To plead a breach of contract, complainant must allege 1) existence of the contract, 2) plaintiff's performance or excuse for nonperformance, 3) defendant's breach, and 4) resulting damages to the plaintiff. (*D'Arrigo Bros. of California v. United Farmworkers of America* (2014) 224 Cal.App.4th 790, 800.)

The Complaint does not appear to allege facts to support a cause of action for a breach of contract against Defendant. Defendant is not a party to either the Investment Agreement with Robert Atkinson or the Investment Agreement with Wanda Harold Atkinson, upon which the cause of action rests. Rather, the Complaint merely alleges at paragraph 4 that Matthew Campbell was a registered agent with Defendant for the duration of the contract. Plaintiffs fail to allege how Defendant's agency was invoked for the contracts identified. Thus, Plaintiffs fail to sufficiently alleged facts for a cause of action for breach of contract against Defendant. The demurrer is sustained as to the first cause of action for breach of contract.

Next, Defendant challenges the second cause of action, for fraud. "The elements of fraud that will give rise to a tort action for deceit are: (a) misrepresentation (false representation, concealment, or nondisclosure); (b) knowledge of falsity (or "scienter"); (c) intent to defraud, i.e., to induce reliance; (d) justifiable reliance; and (e) resulting damage." (*Engalla v. Permanente Medical Group, Inc.* (1997) 15 Cal.4th 951, 974, internal quotation marks omitted.) "Fraud is an intentional tort; it is the element of fraudulent intent, or intent to deceive, that distinguishes it from actionable negligent misrepresentation and from nonactionable innocent misrepresentation. It is the element of intent which makes fraud actionable, irrespective of any contractual or fiduciary duty one party might owe to the other." (*City of Atascadero v. Merrill Lynch, Pierce, Fenner & Smith, Inc.* (1998) 68 Cal.App.4th 445, 482.) Additionally, fraud must be pled with sufficient specificity. (*Lazar v. Superior Court* (1996) 12 Cal.4th 631, 645.) The policy of liberal construction of pleadings will not ordinarily be invoked to sustain a pleading defective in any material respect for allegations of fraud. (*Ibid.*) The requirement necessitates pleading facts which show how, when, where, to whom, and by what means the representations were tendered. (*Ibid.*)

Plaintiffs' Complaint does not appear to allege facts to support a cause of action for fraud or intentional misrepresentation against Defendant. For the reasons stated above, it does not appear from the Complaint that Defendant was a party to the contract. The terms of these contracts appear to be the subject matter of the alleged fraud. Thus, Plaintiffs failed to allege facts as to Defendant, the how, when, where, to

