

Tentative Rulings for June 11, 2026
Department 502

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.

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Tentative Ruling

Re: **Cedar v. Hunt, et al.**
Superior Court Case No. 25CECG05316

Hearing Date: June 11, 2026 (Dept. 502)

Motion: Demurrer and Motion to Strike

If oral argument is timely requested, it will be entertained on Wednesday, June 24, 2026, at 3:30 p.m. in Department 501.

Tentative Ruling:

To overrule defendant Brian Daniel Rosas' general and special demurrer to the complaint.

To grant the motion to strike punitive damages sought against defendant Brian Daniel Rosas in connection with the second and third causes of action. Leave to amend is granted. To deny the motion to strike any damages sought in connection with the fourth cause of action as it is not pled against the moving defendant.

Plaintiffs are granted 10 days' leave to file the First Amended Complaint, which will run from service by the clerk of the minute order. New allegations/language must be set in **boldface** type.

Explanation:

Demurrer

In California, a complaint shall contain a statement of the facts constituting the cause of action, in ordinary and concise language; and a demand for judgment for the relief to which the pleader claims to be entitled. (Code Civ. Proc. §425.10.) If the recovery of money or damages is demanded, the amount demanded shall be stated unless it is an action brought to recover actual or punitive damages for personal injury or wrongful death, in which case the amounts sought shall not be stated. (*Id.*)

In other words, a cause of action must allege every fact which the plaintiff is required to prove in order to allege the facts, or elements, necessary to constitute a cause of action. Where plaintiff fails to allege essential facts, the pleading is subject to demurrer. (See Code Civ. Proc. §§ 425.10, 430.10.)

In testing a pleading against a demurrer, the facts alleged are deemed to be true, "however improbable they may be" (*Del E. Webb Corp. v. Structural Materials Co.* (1981) 123 Cal.App.3d 593, 604) as it is "not the ordinary function of a demurrer to test the truth of the plaintiff's allegations or the accuracy with which [plaintiff] describes the

defendant's conduct. A demurrer tests only the legal sufficiency of the pleading. [Citation.]" (*Quelimane Co. v. Stewart Title Guaranty Co.* (1998) 19 Cal.4th 26, 47.)

In the case at bench, Defendant Brian Daniel Rosas demurs to the fourth cause of action on the grounds that it fails to state sufficient facts to constitute a cause of action and is uncertain. Both grounds for demurrer are premised on the inclusion of a reference to the officers owing a duty of care when discharging their fire arms found in paragraph 38.

Plaintiffs' fourth cause of action alleges violations of Code of Civil Procedure sections 733 and 3346 by defendants Daniel Hunt, Jennifer, Hunt and Jason Hunt by their having cut down plaintiff's trees. Defendant argues the allegations do not state a claim for violations against defendant Rosas and is subject to demurrer. The plain language of the complaint indicates the fourth cause of action is not pled against defendant Rosas or the other named officer defendants. The fourth cause of action is pled in ordinary language. The facts underlying the claim are clear. The inclusion of an allegation referencing the officers, who are alleged to have been guests on the Hunt property at the time of the Gun Fire, does not create a cause of action against the officers and by the omission of these officer defendants from the named defendants in the cause of action was not intended to. The general demurrer and special demurrer for uncertainty are overruled. (Code Civ. Proc. § 430.10, subds. (e) and (f).)

Motion to Strike

Defendant Rosas move to strike the allegations, language and prayer for relief related to attorney's fees, treble damages, and punitive damages against him.

"The court may, upon a motion made pursuant to Section 435, or at any time in its discretion, and upon terms it deems proper: (a) Strike out any irrelevant, false, or improper matter inserted in any pleading, (b) Strike out all or any part of any pleading not drawn or filed in conformity with the laws of this state, a court rule, or an order of the court." (Code Civ. Proc., § 436.)

To the extent the motion relates to damages related to the fourth cause of action, which is not pled against him, the motion is denied. In contrast, plaintiffs' prayer for punitive damages at page 10, lines 24-25 against both the Hunts and Officers fairly implicates defendant Rosas, an officer, to be the target of this request.

A motion to strike may be used to remove a claim for punitive damages that is not adequately supported by the facts alleged in the complaint. (*Cryolife, Inc. v. Superior Court* (2003) 110 CalApp.4th 1145; *Kaiser Foundation Health Plan, Inc. v. Superior Court* (2012) 203 Cal.App.4th 696.)

Civil Code section 3294, subdivision (a) provides:

In an action for the breach of an obligation not arising from contract, where it is proven by clear and convincing evidence that the defendant has been guilty of oppression, fraud, or malice, the plaintiff, in addition to the actual

