

Tentative Rulings for October 28, 2025
Department 403

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 Rulings for Department 403

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Tentative Ruling

Re: **Corral v. Webull Financial**
Superior Court Case No. 24CECG01122

Hearing Date: October 28, 2025 (Dept. 403)

Motion: by Defendant for Judgment on the Pleadings

Tentative Ruling:

To grant the motion for judgment on the pleadings, with plaintiff granted 30 days' leave to file a second amended complaint. (Code Civ. Proc. § 438.) The time in which the complaint can be amended will run from service by the clerk of the minute order.

Oral argument on this matter is continued to December 2, 2025, at 3:30 in Dept. 403 so that the plaintiff may be present for oral argument via Zoom.

Explanation:

Plaintiff Michael Corral filed the First Amended complaint on February 18, 2025¹ using a Judicial Council form complaint. In paragraph 9 plaintiff indicates that she alleges a general negligence and "Other" causes of action as "Failed Bank Access."

Use of the Judicial Council form complaint requires the use of attachments for alleging the causes of action. Paragraph 8 of the form pleading states, "[t]he following causes of action are attached and the statements above apply to each **(each complaint must have one or more causes of action attached)**: ..." (Emphasis added.) The plaintiff is to check the boxes indicating the causes of action being alleged (or specify others in the "other" section), and add to the form complaint attachments alleging the elements and facts pertinent to each cause of action. Having failed to include any cause of action attachments, the complaint fails to state facts sufficient to state any cause of action.

The Amended Complaint includes handwritten allegations stating that Webull Financial failed to comply with a notarized exhibit to sell stocks and forward the worth to plaintiff's trust or bank account. The exhibits attached to the complaint appear to be pages from a notary register. Plaintiffs may attach a copy of a document to the complaint and incorporate it by reference. By so doing, the documents become part of the complaint as if set forth verbatim therein. Thus, the contents of the *exhibit may supply the ultimate facts* required to state the cause of action. (*Del Mar Beach Club Owners Assn., Inc. v. Imperial Contracting Co., Inc.* (1981) 123 Cal.App.3d 898, 908.) Although there are documents attached to the Amended Complaint, none of them are

¹ Counsel for defendant, Marie Carrera attests to not having been served with the First Amended Complaint that is the subject of this motion. (Carrera Decl., ¶ 5.) Plaintiff must serve any amended pleadings on all parties having appeared in the action.

The elements of a cause of action for negligence are duty, breach of duty, legal cause, and damages. (*Friedman v. Merck & Co.* (2003) 107 Cal.App.4th 454, 463.) Here, the minimal facts alleged appear to be attempting to state defendant owed a duty to plaintiff and breached that duty when it did not sell stocks but there is no clear allegation that this breach caused damages to plaintiff.

The motion for judgment on the pleadings is granted. Leave to amend is granted so that plaintiff can include the relevant cause of action attachments if he opts to utilize the Judicial Council form complaint again.

Tentative Ruling

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Tentative Ruling

Re: **California Department of Public Health v. Prestige Biotech, Inc.**
Superior Court Case No. 24CECG02431

Hearing Date: October 28, 2025 (Dept. 403)

Motion: By Petitioner California Department of Public Health for
Judgment of Condemnation

If oral argument is timely requested, it will be entertained on Thursday, October 30, 2025, at 3:30 p.m. in Department 403.

Tentative Ruling:

To continue to Wednesday, April 8, 2026 at 3:30 p.m. in Department 403. Petitioner is to submit a supplemental declaration regarding the status of the jury trial in United States District Court Case Number 1:23-CR-00219-DAD-BAM. The supplemental declaration is to be filed no later than March 25, 2026.

Explanation:

The court is continuing this matter in light of the declaration submitted by defense counsel for David He in the matter of *U.S. v. Jia Bei Zhu*. The declaration indicates that a trial is scheduled for March 10, 2026 in the United States District Court. (Capozzi Decl., ¶ 1.) In light of this information, the court intends to continue this matter to be heard after the above referenced trial proceedings.

Pursuant to California Rules of Court, rule 3.1312(a), and Code of Civil Procedure section 1019.5, subdivision (a), no further written order is necessary. The minute order adopting this tentative ruling will serve as the order of the court and service by the clerk will constitute notice of the order.

Tentative Ruling

Issued By: img on 10-27-25
(Judge's initials) (Date)

(35)

Tentative Ruling

Re: ***Sunshine Raisin Corporation v. Kular et al.***
Superior Court Case No. 24CECG05332

Hearing Date: October 28, 2025 (Dept. 403)

Motion: (1) By Cross-Defendant Sunshine Raisin Corporation on
Demurrer to Cross-Complaint
(2) By Cross Defendant Sunshine Raisin Corporation to Strike
Portions of the Cross-Complaint

Tentative Ruling:

To overrule as to the first cause of action for declaratory relief. (Code Civ. Proc., § 430.10, subd. (e).) To sustain as to the second cause of action for negligence, without leave to amend. (Code Civ. Proc., § 430.10, subd. (e).)

To deny the motion to strike in its entirety.

Cross-Defendant Sunshine Raisin Corporation is directed to serve and file an answer to the Complaint within 10 days of service of the order by the clerk.

**If oral argument is timely requested, it will be entertained on
Thursday, October 30, 2025, at 3:30 p.m. in Department 403.**

Explanation:

Cross-defendant Sunshine Raisin Corporation ("Cross-Defendant") demurs to the Cross-Complaint ("CC") by cross-complainants Rajvir Kular, Sukhwinder Kular, and Karnvir Kular (together "Cross-Complainants") as to each cause of action for failure to state facts sufficient to support a cause of action. The CC states two causes of action for: (1) declaratory relief; and (2) negligence.

On a demurrer a court's function is limited to testing the legal sufficiency of the complaint. A demurrer is simply not the appropriate procedure for determining the truth of disputed facts. (*Fremont Indemnity Co. v. Fremont General Corp.* (2007) 148 Cal.App.4th 97, 113-114.) It is error to sustain a demurrer where plaintiff "has stated a cause of action under any possible legal theory. In assessing the sufficiency of a demurrer, all material facts pleaded in the complaint and those which arise by reasonable implication are deemed true." (*Bush v. Cal. Conservation Corps* (1982) 136 Cal.App.3d 194, 200.)

In determining a demurrer, the court assumes the truth of the facts alleged in the complaint and the reasonable inferences that may be drawn from those facts. (*Miklosy v. Regents of University of California* (2008) 44 Cal.4th 876, 883.) On demurrer, the court must determine if the factual allegations of the complaint are adequate to state a cause of action under any legal theory. (*Barquis v. Merchants Collection Assn.* (1972) 7 Cal.3d

94, 103.) A plaintiff is not required to plead evidentiary facts supporting the allegation of ultimate fact; the pleading is adequate if it apprises defendant of the factual basis for plaintiff's claim. (*Perkins v. Superior Court* (1981) 117 Cal.App.3d 1, 6.)

Declaratory Relief

Under Code of Civil Procedure section 1060, in pertinent part, that:

Any person interested... who desires a declaration of his or her rights or duties with respect to another... may, in cases of actual controversy relating to the legal rights and duties of the respective parties, bring an original action... for a declaration of his or her rights and duties in the premises, including a determination of any question of construction or validity arising under the instrument or contract.

Cross-Defendant submits that this cause of action fails to state an actual controversy. The CC identifies the following as to controversies: (1) whether cross-complainants Sukhwinder Kular and Karnvir Kular are bound by contracts placed at issue in the Complaint; (2) whether cross-complainant Rajvir Kular breached the "as-is" contracts placed at issue in the Complaint; (3) whether a settlement agreement is enforceable; and (4) what is due and owing from Cross-Defendant to Cross-Complainants due to Cross-Defendant's negligence or fraudulent conduct. (CC, ¶ 13.)

As to the third basis, it appears that the parties agree that the settlement agreement, attached to the CC as Exhibit A, is not subscribed by all named parties. Comments were submitted, which are consistent with the language of Exhibit A that all of Cross-Complainants, collectively, were to be bound by the agreement. (*E.g.*, CC, Ex. A, Part II.) The parties agree that not all named persons executed the agreement. In sum, there does not appear to be an actual controversy as to the settlement agreement.

As to the first, second, and fourth bases, Cross-Defendant does not address those grounds for the relief sought in its moving papers except as to conclude that these are past wrongs. However, the CC identifies that a controversy exists as to whether these contracts were breached. (CC, ¶ 8.) As the parties agree that no settlement agreement exists to supersede those claims, what remains are contracts upon which there appear to be existing disagreements. Whether a breach occurred, there are allegations as to future actions such as a demand for repayment. (*Ibid.*) Nothing suggests that repayment has occurred, and therefore the CC seeks clarification as to existing duties and future acts.

Cross-Defendant on reply suggests that the cause of action is redundant to its Complaint, and that the CC is an attempt to obtain an advisory damages determination. How these matters are sequenced are the function of the parties. There is nothing inherently improper about cross-claims based on the same set of facts and circumstances. Declaratory relief is available to a breach of contract, sought in the alternative where a written contract is not established. (Code Civ. Proc., § 1060 ["Any person... who desires a declaration of his or her rights or duties with respect to another..."]) A general demurrer does not lie to only part of a cause of action. (*PH II, Inc.*

v. Superior Court (1995) 33 Cal.App.4th 1680, 1682.) Accordingly, the demurrer to the first cause of action for declaratory relief is overruled.

Negligence

Cross-Defendant submits that the negligence cause of action fails to identify a duty owed. On review of the CC, facts were not alleged to support the otherwise conclusory statement that a duty was owed. (CC, ¶ 15.) As the opposition fails to address this cause of action, the demurrer is sustained, without leave to amend.

Motion to Strike

Cross-Defendant additionally seeks to strike portions of the CC. Specifically, Cross-Defendant seeks to strike paragraphs 9, 10, and 11, as well as page 4, lines 15 to 19, page 5, lines 12 to 16, and Exhibit A to the CC. Cross-Defendant submits these allegations are subject to the litigation privilege.

The litigation privilege precludes liability arising from a publication made in a judicial proceeding or other official proceeding. (Civ. Code § 47, subd. (b).) The usual formulation is that the privilege applies to any communication (1) made in a judicial or quasi-judicial proceeding; (2) by litigants or other participants authorized by law; (3) to achieve the objects of litigation; and (4) have some connection or logical relation to the action. (*Silberg v. Anderson* (1990) 50 Cal.3d, 205, 212.) However, the privilege is noted specifically to preclude being harassed by subsequent derivative tort actions. (*Id.* at p. 213.) Here, the issue underlying the declaratory relief cause of action appears to arise from the law of contracts. Contract claims are not categorically excluded from the litigation privilege. (*Timothy W. v. Julie W.* (2022) 85 Cal.App.5th 648, 663.) Rather, the privilege applies where application furthers the purposes of the litigating privilege based on the underlying facts. (*Id.* at pp. 663-664; see *id.* at p. 664, fn. 5 [noting that the California Supreme Court granted review on the applicability of the litigation privilege to contract claims, but ultimately did not reach the issue].)

The alleged statements, that individuals on behalf of Cross-Defendant informed Cross-Complainants that Cross-Defendant would have cross-complainant Rajvir Kular and his elderly father “picked up by the Sheriff” and “locked up” if a document was not signed, is not the sort of action protected by the litigation privilege. (See *Flatley v. Mauro* (2006) 39 Cal.4th 299, 330-331.) The court finds that Cross-Defendant fails to sufficiently demonstrate the applicability of the litigation privilege to the allegations of the declaratory relief action, which itself is not a tort action, and the underlying claims arise from contractual relations. The motion to strike is denied in its entirety.

Pursuant to California Rules of Court, rule 3.1312(a), and Code of Civil Procedure section 1019.5, subdivision (a), no further written order is necessary. The minute order adopting this tentative ruling will serve as the order of the court and service by the clerk will constitute notice of the order.

Tentative Ruling

Issued By: img on 10-27-25
(Judge's initials) (Date)