

Tentative Rulings for December 9, 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.

23CECG04751 *Higinio Figueroa v. Enrique Figueroa* is continued to Tuesday, January 6, 2026, at 3:30 p.m. in Department 403.

21CECG00434 *A.D. v. Fresno County Department of Social Services* is continued to Wednesday, January 7, 2026, at 3:30 p.m. in Department 403.

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Tentative Ruling

Re: **Dorsey v. Wells Fargo Bank, N.A.**
Superior Court Case No. 25CECG01531

Hearing Date: December 9, 2025 (Dept. 403)

Motion: Defendant Wells Fargo Bank's Demurrer to the Complaint

Tentative Ruling:

To sustain the demurrer to the First Amended Complaint, with leave to amend only as to any claims not related to negligence. Plaintiff is granted 30 days' leave to file the Second Amended Complaint, which will run from service by the clerk of the minute order.

Explanation:

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.)

Uncertainty

Here, Plaintiff has utilized the Judicial Council form complaint. Use of the Judicial Council form complaint requires the use of attachments for alleging the causes of action. Paragraph 10 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*): ..." The plaintiff is to check the boxes indicating the causes of action being alleged, and add to the form complaint attachments alleging the elements and facts pertinent to each cause of action. (Code Civ. Proc., § 430.10, subd. (e).)

Code of Civil Procedure section 430.10, subdivision (f), provides for demurrer where a complaint is uncertain. The documents are not in a cohesive order and are incomplete. Here, Plaintiff has utilized the Judicial Council form complaints for personal injuries and for breach of contract, intermingling the two forms. Page 2 of the First Amended Complaint ("FAC") is for contract claims and page 3 is for personal injury claims. On page 2, Plaintiff has checked the box indicating a cause of action for breach of contract and on page 3 she has check the box indicating a cause of action for products liability. The cause of action attachments used were the ones for fraud, for

breach of contract, and for general negligence. Notably, of these, only breach of contract was indicated in the form complaint.

For the fraud cause of action attachment, the first page of this is not included. As such, it is unclear who this cause of action is intended to be asserted against. Defendants Mary Chatman and Shavana Johnson are named in the handwritten portions. For the intentional tort cause of action attachment, the defendants named are Does 1 to 26. The only cause of action which appears to be asserted against Defendant Wells Fargo is that for negligence. It is unclear from the FAC which allegations are intended against which defendants. Additionally, on December 4, 2025, Plaintiff filed an "Amendment to the First Amended Complaint". This document does not clarify which causes of action are asserted against which defendant(s). The Court is sustaining the demurrer on the basis of uncertainty, with leave to amend.

Negligence

Turning to the negligence cause of action, in order to plead negligence, a plaintiff must allege the defendant owed a duty of care to the plaintiff, that defendant breached that duty of care, causation, and damages. (*United States Liab. Ins. Co. v. Haidinger-Hayes, Inc.* (1970) 1 Cal.3d 586, 594.) A bank owes a basic duty of care to its customers, arising from its contract with its customers. (*Rodriguez v. Bank of the West* (2008) 162 Cal.App.4th 454, 460.) "[A]bsent extraordinary and specific facts, a bank does not owe a duty of care to a noncustomer." (*Software Design & Application, Ltd. v. Hoefler & Arnett, Inc.* (1996) 49 Cal.App.4th 472, 479.) Duties have been imposed where checks presented for deposit show objective signs of fraud. (*Sun 'n Sand, Inc. v. United California Bank* (1978) 21 Cal.3d 671, 694-695; *Software Design & Application, Ltd. v. Hoefler & Arnett, Inc.*, *supra*, 49 Cal.App.4th at p. 479.) Such duty should be narrowly circumscribed. (*Software Design & Application, Ltd. v. Hoefler & Arnett, Inc.*, *supra*, 49 Cal.App.4th at p. 480.) Courts have found that there may be accompanying "danger signals ... stemm[ing] from the particular circumstances of the checks, endorsements or depositors, where the person attempting to negotiate the check is not the payee." (*Id.* at pp. 480-481.) Regarding large withdrawals, there is no duty to supervise account activity "in the absence of suspicious instruments." (*Id.* at p. 481.)

Here, the suspicious instrument is alleged to be the relationship change based on a void Power of Attorney. However, Plaintiff's own allegations demonstrate that there was no reason for Defendant bank to find the Power of Attorney suspect. No information is provided indicating that Defendant bank knew of Decedent's death on March 28, 2023 or prior to the relationship change on April 4, 2023. In fact, in her opposition, Plaintiff asserts that she notified Defendant approximately August 24, 2024, more than one year after the Power of Attorney was provided to Defendant. Also, a Power of Attorney is legally sufficient where it has all of the following: 1) the date of its execution, 2) is signed by the principal, and 3) is either acknowledged before a notary public or signed by two witnesses. (Prob. Code, § 4121.) Here, the Power of Attorney attached to the FAC has a date of execution, appears to be signed by the principal, and is signed by two witnesses. Nothing on the face of the document made it a suspicious instrument. As such, there

was no duty by Defendant bank to flag the withdrawals made following the relationship change based on the Power of Attorney.

Additionally, the economic loss rule articulates that liability for negligence based purely on an economic loss is the exception, not the rule. (*Kurtz-Ahlers, LLC v. Bank of America, N.A.* (2020) 48 Cal.App.5th 952, 959-960; *Quelimane Co. v. Stewart Title Guaranty Co.* (1998) 19 Cal.4th 26, 58.) The economic loss rule requires recovery in contract for purely economic loss, unless a plaintiff can show harm beyond a broken contractual promise. (*Robinson Helicopter Co., Inc. v. Dana Corp.* (2004) 34 Cal.4th 979, 988.) Here, Plaintiff only alleges financial damages and has not alleged a harm beyond one that would arise in contract against Defendant Wells Fargo. As such, a claim for negligence is not appropriate here.

As to the cause of action against Defendant Wells Fargo for negligence, the Court sustains the demurrer without leave to amend.

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: **on** 12-8-25 .

(Judge's initials) (Date)