

**TENTATIVE RULINGS**

**LAW & MOTION CALENDAR**

**Wednesday, March 25, 2026, 3:00 p.m.**

**Courtroom 16 – Hon. Dennis Hayashi for Hon. Patrick M. Broderick**

**3035 Cleveland Avenue, Suite 200, Santa Rosa**

**TO JOIN “ZOOM” ONLINE,**

**Courtroom 16**

**Meeting ID: 161-460-6380**

**Passcode: 840359**

<https://sonomacourt-org.zoomgov.com/j/1614606380?pwd=NUdpOEZ0RGxnVjBzNnN6dHZ6c0ZQZz09>

**TO JOIN “ZOOM” BY PHONE,**

**By Phone (same meeting ID and password as listed above):**

**(669) 254-5252 US (San Jose)**

The following tentative rulings will become the ruling of the Court unless a party desires to be heard. If you desire to appear and present oral argument as to any motion, YOU MUST notify the Court by telephone at **(707) 521-6725**, and all other opposing parties of your intent to appear by 4:00 p.m. the court day immediately before the day of the hearing.

Parties in motions for claims of exemption are exempt from this requirement.

**PLEASE NOTE: The Court WILL NOT provide a court reporter for this calendar. If there are any concerns, please contact the Court at the number provided above.**

**1. 25CV02061, Calderon v. General Motors, LLC.**

**Demurrer OVERRULED in part, SUSTAINED in part.** The court SUSTAINS the demurrer to the 4<sup>th</sup> cause of action and OVERRULES the demurrer to the 5<sup>th</sup> cause of action. Because this is the first demurrer which the court has considered, the court grants Plaintiff leave to amend solely regarding the timeliness 4<sup>th</sup> cause of action. However, the remainder of the complaint, i.e., all causes of action except the 4<sup>th</sup>, are not affected and require no amendment. Plaintiff therefore need not amend the complaint as to any cause of action other than the 4<sup>th</sup>. Should Plaintiff not amend the allegations regarding the timeliness of the 4<sup>th</sup> cause of action, this will not affect the remainder of the complaint or other causes of action they will remain operative and at issue.

Plaintiff has leave to amend within 10 days of the service of the notice of entry of this order. Defendant is to serve the notice of entry of this order within 5 days of entry of this order. California Rule of Court (“CRC”) 3.1320(g).

**Facts**

Plaintiff complains that on January 8, 2020, he purchased a new 2020 GMC Sierra 1500 Denali (“the Vehicle”) for which Defendant provided warranties (“the Warranties”) but Defendant knew that the Vehicle was defective and dangerous and Defendant concealed this with misleading advertising, and conducted only deficient recalls which did not address the true problems, despite complaints regarding other vehicles with the same components. Plaintiffs brought the Vehicle for maintenance or repair issues but Defendant did not disclose the true problems and failed to cure the defects. Plaintiff asserts that Defendant’s conduct violated the Song-Beverly Consumer Warranty Act (“Song-Beverly”) at Civil Code (“CC”) section 1790, et seq.

### **Demurrer**

Defendant demurs to the 4<sup>th</sup> and 5<sup>th</sup> causes of action on the grounds that they fail to state facts sufficient to constitute a cause of action. It contends that the 4<sup>th</sup> cause of action for breach of implied warranty fails because it is untimely based on the four-year statute of limitations and that the 5<sup>th</sup> cause of action for fraud fails because it is untimely based on the three-year statute of limitations, Plaintiff fails to plead the elements of fraud, and the economic-loss rule and independent-tort principle bar it.

Plaintiff opposes the demurrer.

Defendant replies to the opposition.

### **Demurrer Authority**

A demurrer can only challenge a defect appearing on the *face* of the complaint, exhibits thereto, and judicially noticeable matters. Code of Civil Procedure (“CCP”) section 430.30; *Blank v. Kirwan* (1985) 39 Cal.3d 311, 318. The grounds for a demurrer are set forth in CCP section 430.10. One of the grounds, in subdivision (e), is the general demurrer that the pleading fails to state facts sufficient to constitute a cause of action.

Demurrer for failure to state facts sufficient to constitute a cause of action is a general demurrer, which must fail if there is *any* valid cause of action. CCP section 430.10(e); *Quelimane Co., Inc. v. Steward Title Guar. Co.* (1998) 19 Cal.4th 26, 38-39; *Fox v. JAMDAT Mobile, Inc.* (2010) 185 Cal.App.4<sup>th</sup> 1068, 1078 (“as long as a complaint consisting of a single cause of action contains any well-pleaded cause of action, a demurrer must be overruled even if a deficiently pleaded claim is lurking in that cause of action as well”).

### **4<sup>th</sup> Cause of Action**

Defendant contends that the 4<sup>th</sup> cause of action for breach of implied warranty fails because it is untimely based on the four-year statute of limitations. It asserts that the cause of action accrued upon sale and delivery of the Vehicle to Plaintiff, allegedly on about January 8, 2020. Plaintiff contends that the delayed-discovery principle applies to this cause of action so that it accrued upon discovery, not delivery. Although neither party fully presents a correct discussion of the law, Defendant in this case is ultimately correct here.

Because Song-Beverly does not contain any actual statutes of limitations, the court in *Mexia v. Rinker Boat Co., Inc.* (2009) 174 Cal.App.4<sup>th</sup> 1297, at 1305-1306, explained that “California courts have held that the statute of limitations for an action for breach of warranty under the Song-Beverly Act is governed by the same statute that governs the statute of limitations for warranties arising under the Uniform Commercial Code: section 2725 of the Uniform Commercial Code. [Citations.]” See also *Cardinal Health 301, Inc. v. Tyco Electronics Corp.* (2008) 169 Cal.App.4<sup>th</sup> 116, at 129.

A warranty may be breached if a defect was latent and existed during the warranty period but was undiscoverable. The *Mexia* court also noted, at 1304-1305, that the implied warranty applies to latent defects undiscoverable on delivery, where the breach occurs on the existence of the defect, not its later discovery. In the court’s words,

[t]he implied warranty of merchantability may be breached by a latent defect undiscoverable at the time of sale. [Citations.] Indeed, “[u]ndisclosed latent defects ... are the very evil that the implied warranty of merchantability was designed to remedy.” [Citation.] In the case of a latent defect, a product is rendered unmerchantable, and the warranty of merchantability is breached, by the existence of the unseen defect, not by its subsequent discovery.

As the *Mexia* court further explained, with emphasis added, “the drafters of the Uniform Commercial Code adopted a four-year statute of limitations that would *generally* commence upon delivery of the product. [Citations.]” The exception is where the warranty provides for future performance or condition, referred to as the “future performance” exception. *Cardinal Health*, 129. As explained in *Cardinal Health*, with emphasis added,

the general limitations rule for a breach of warranty cause of action is four years from the date the goods *are delivered* (regardless of the date the buyer discovers the breach), *unless the “warranty explicitly extends to future performance* of the goods and discovery of the breach must await the time of such performance ....” (§ 2725, subd. (2).) If the exception applies, the accrual date is the time the breach “is or should have been discovered.”

This exception is, however, narrowly construed, the *Cardinal Health* court stating, at 130, that despite some dispute across the country, “the majority view is that the exception must be narrowly construed, and that it applies only when the seller has expressly agreed to warrant its product for a specific and defined period of time.”

The *Mexia* court, discussing the difference, and interaction, between the duration provision and statute of limitations, did also make it clear that under Song-Beverly the implied warranty may be breached, and the cause of action may accrue, after delivery, but only during the duration period of, as noted above, up to 1 year. As the court put it, with emphasis added,

[a]ccording to its plain language the implied warranty [duration period] exists for at least 60 days and at most for one year after delivery of the product; after that time, the warranty ceases to exist.

To say that a warranty exists is to say that a cause of action can arise for its breach. *Defining the time* period during which the implied warranty exists, therefore, also *defines the time period during which the warranty can be breached*. Thus, by giving the implied warranty a limited prospective existence beyond the time of delivery, the Legislature created the possibility that the *implied warranty could be breached after delivery*.

In other words, the cause of action may accrue within any time up to one year following delivery, not only upon delivery. However, this also limits the date of accrual to no later than one year following delivery.

Similarly, in *Atkinson v. Elk Corp. of Texas* (2006) 142 Cal.App.4<sup>th</sup> 212, at 217-219, the court found a cause of action for breach of implied warranty under Song-Beverly untimely when brought 5 ½ years after the delivery, explaining that the case had to be filed within 4 years of the end of the 1-year warranty period, or at most 5 years after delivery.

In this instance, Plaintiff alleges that delivery was on or about January 8, 2020. At the latest, this cause of action could have accrued on January 8, 2021, making the deadline for bring the cause of action January 8, 2025. Plaintiff filed the complaint in October 2025, making this cause of action untimely.

The court SUSTAINS the demurrer to this cause of action.

**5<sup>th</sup> Cause of Action**  
**Timeliness**

Defendant first argues that the 5<sup>th</sup> cause of action for fraud fails because it is untimely based on the three-year statute of limitations. Plaintiff again counters that delayed discovery resulted in a later accrual of the cause of action.

Claims based on fraud may be tolled or may not accrue until discovery. CCP section 338(d) states that fraud claims accrue on the date of discovery and CCP section 337(3) states that this applies also to rescission based on fraud.

Defendant asserts that Plaintiff cannot rely on the delayed-discovery rule to make this cause of action timely because he alleges that the defects manifested within the applicable express warranty period. However, that does not mean that Plaintiff discovered, or should have discovered, the fraudulent wrongdoing at that time. The complaint fails to clarify when this occurred and the complaint does not need to do so. The failure to allege dates is irrelevant and will not support any demurrer because a party does not need to allege any specific dates. *Union Carbide Corp. v. Sup.Ct.* (1984) 36 Cal.3d 15, 25; *United Western Med. Ctrs. v. Sup.Ct.* (1996) 42 Cal.App.4<sup>th</sup> 500, 505.

#### Pleading The Elements of Fraud

Next, Defendant contends that Plaintiff fails to plead the elements of fraud with requisite specificity.

According to Civil Code (“CC”) section 1709, one who willfully deceives another with intent to induce him or her to alter position to his or her detriment is liable for any damage resulting. CC section 1710 defines 4 types of deceit within the meaning of CCP section 1709. These are a false factual “suggestion... by one who does not believe it to be true”; a false factual “assertion... by one who has no reasonable ground for believing it to be true”; concealment, or the “suppression of a fact, by one who is bound to disclose it, or who gives information of other facts which are likely to mislead for want of communication of that fact”; and a “promise, made without any intention of performing it.”

The elements of fraud are 1) misrepresentation, concealment, or false promise; 2) of a material fact; 3) knowledge of falsity or scienter; 4) intent to defraud, or induce reliance; 5) justifiable reliance; and 6) damage. *Seeger v. Odell* (1941) 18 Cal.2d 409, 414. Section 1709 states that there must be some duty to disclose in order for a party to be liable for concealment. This often requires a fiduciary relationship or other duty to disclose. See *LiMandri v. Judkins* (1997) 52 Cal.App.4<sup>th</sup> 326, 336; *Mesmer v. White* (1953) 121 Cal.App.2d 665, 670. A statutory duty will also suffice. *Pastoria v. Nationwide, Ins.* (2003) 112 Cal.App.4<sup>th</sup> 1490, 1499. However, this duty to disclose also arises absent a confidential relationship where the defendant alone has knowledge of material facts of which the plaintiff is ignorant. *Sime v. Malouf* (1949) 95 Cal.App.2d 82, 100. Moreover, active concealment is more egregious and legally equivalent to affirmative misrepresentation. See *Outboard Marine Corp. v. Sup.Ct.* (1975) 52 Cal.App.3d 30, 37. *Sime v. Malouf* (1949) 95 Cal.App.2d 82, 99. In addition, a party with no duty to speak, but who does so and suppresses at least part of the truth may also be liable since parties are bound to speak honestly and disclose facts that will materially affect the information given. CC section 1710(3); see *Pohl v. Mills* (1933) 218 Cal.641, 654.

Courts have long held that plaintiffs must plead fraud with particularity, requiring not simply the legal conclusion of “fraud,” but the facts constituting it and they must plead every element factually and specifically. See, e.g., *Hills Transportation Co. v. Southwest Forest Ind., Inc.* (1968) 266 Cal.App.2d 702, 707; *Scafidi v. Western Loan & Bldg. Co.* (1946) 72 Cal.App.2d 550, 558; *Woodson v. Winchester* (1911) 16 Cal.App.472, 473.

However, courts still owe a duty to construe the pleadings liberally and not be too strict or technical in applying the requirement of pleading fraud with particularity. See, e.g., *Wilson v.*

*Houston Funeral Home* (1996) 42 Cal.App.4th 1124, 1139; *Nevin v. Gary* (1909) 12 Cal.App.1, 5 (court upheld inferential pleading of element of causation, that the fraud induced the action).

“ [T]he courts should not ... seek to absolve the defendant from liability on highly technical requirements of form in pleading. Pleading facts in ordinary and concise language is as permissible in fraud cases as in any others, and liberal construction of the pleading is as much a duty of the court in these as in other cases.’ [Citations]” *Committee on Children's Television, Inc. v. General Foods Corp.* (1983) 35 Cal.3d 197, 216, fn. 17; see also *Apollo Capital Fund, LLC v. Roth Capital Partners, LLC* (2007) 158 Cal.App.4th 226, 242 (quoting *Committee on Children's Television*).

Defendant contends that Plaintiff has not sufficiently pleaded facts showing a failure to disclose, knowledge, materials with information about the Vehicle, or intent to defraud.

Plaintiff sufficiently pleads fraud. He alleges specific warranties, specific details about the Vehicle VIN and model, the place and date of purchase, and specific defects in the Vehicle, including a tendency to burn oil too quickly and malfunctioning A/C. He also alleges that Defendant knew and concealed the defects, which were not disclosed. Plaintiff need not allege specific facts showing knowledge and intent, as set forth above. This is also logical since a plaintiff, especially at the pleading stage, is unlikely to possess any direct or specific information showing knowledge or intent.

Defendant also contends that Plaintiff has not pleaded a contractual relationship between the parties but Plaintiff correctly notes that he has alleged an express contractual warranty which Defendant provided. This is sufficient.

Defendant contends that Plaintiff has not pleaded actual or justifiable reliance. However, he explains that Defendant concealed the known defects, these were not disclosed to the public, Plaintiff relied on the lack of these defects, and he purchased the Vehicle based on the expectation that the Vehicle did not suffer from those defects.

Defendant also asserts that the economic loss rule bars the fraud cause of action but Defendant's discussion of the economic loss rule is not only unpersuasive, it is entirely unclear.

As the Supreme Court stated in *Robinson Helicopter Co. v. Dana Corp.* (2004) 34 Cal.4th 979, at 984, where a party is suing for damages related to a defective product which the plaintiff purchased, “the economic loss rule... in some circumstances bars a tort action in the absence of personal injury or physical damage to other property” beyond the product in question. The Supreme Court, citing earlier decisions, added at 988 that

the economic loss rule provides: “ ‘ “[W]here a purchaser's expectations in a sale are frustrated because the product he bought is not working properly, his remedy is said to be in contract alone, for he has suffered only ‘economic’ losses.” This doctrine hinges on a distinction... between transactions involving the sale of goods... where economic expectations are protected by commercial and contract law, and those involving the sale of defective products to individual consumers who are injured in a manner which has traditionally been remedied by...law of torts.” [Citation.]

As a result, the court explained, the rule “requires a purchaser to recover in contract for purely economic loss due to disappointed expectations, unless he can demonstrate harm above and beyond a broken contractual promise.” *Robinson Helicopter*, 988. This prevents contract and tort law from “dissolving” into each other. *Ibid.*

In general, the rule bars actions involving negligence. *Sacramento Regional Transit Dist. v. Grumman Flexible* (1984) 158 Cal.App. 3d 289, 299; *Greystone Homes v. Midtec* (2008) 168 Cal.App.4th 1194, 1228; see also *Seely v. White Motor Co.* (1965) 63 Cal.2d 9; Witkin, Summary of Cal.Law (10th Ed.2005) Torts, section 1516.

However, the economic loss rule is inapplicable to, and does not bar, tort actions based on *fraud or other intentional* conduct. *Robinson Helicopter Co. v. Dana Corp.* (2004) 34 Cal.4<sup>th</sup> 979, 990-991; *County of Santa Clara v. Atlantic Richfield Co.* (2006) 137 Cal. App. 4<sup>th</sup> 292, 328. The rule therefore does not bar claims that a party fraudulently induced one to enter into a contract. *Erlich v. Menezes* (1999) 21 Cal.4<sup>th</sup> 543, 551-552.

The rule does not bar claims based on wrongful conduct which goes beyond mere breach and involves a violation of a duty independent of the contractual obligations. *Applied Equipment Corp. v. Litton Saudi Araba* (1994) 7 Cal.4<sup>th</sup> 503, 515; *Harris v. Atlantic Richfield Co.* (1993) 14 Cal.App.4<sup>th</sup> 70, 78. As the Supreme Court explained in *Applied Equipment*, at 514-515,

We have described the essential difference between contract and tort law as follows: “As Professor Prosser has explained: '[Whereas] [c]ontract actions are created to protect the interest in having promises performed,' '[t]ort actions are created to protect the interest in freedom from various kinds of harm. The duties of conduct which give rise to them are imposed by law, and are based primarily on social policy, and not necessarily based upon the will or intention of the parties ....'” [Citation.]

Conduct amounting to a breach of contract becomes tortious only when it also violates an independent duty arising from principles of tort law. “The law imposes the obligation that 'every person is bound without contract to abstain from injuring the person or property of another, or infringing upon any of his rights.' (Sec. 1708, Civ. Code.) This duty is independent of the contract .... '[A]n omission to perform a contract obligation is never a tort, unless that omission is also an omission of a legal duty.'” [Citation.]

The Supreme similarly stated in *Erlich*, at 550-551, “‘[T]he distinction between tort and contract is well grounded in common law, and divergent objectives underlie the remedies created in the two areas. Whereas contract actions are created to enforce the intentions of the parties to the agreement, tort law is primarily designed to vindicate ’social policy.’” [Citation.]’ [Citation.]’

A party may seek tort remedies, and pursue tort causes of action, where the facts at issue go beyond mere breach of contract and involve tortious conduct. *Tomaselli v. Transamerica Ins. Co.* (1994) 25 Cal.App.4<sup>th</sup> 1269, at 1286-1288. The court in *Tomaselli v. Transamerica Ins. Co.* (1994) 25 Cal.App.4<sup>th</sup> 1269, at 1286-1288, directly ruled that a simple breach-of-contract action cannot support tort or exemplary damages, *without more than mere breach of contract*, even if the breach was intentional and deliberate. It clarified that an action based on breach of contract *may* support punitives if there is evidence showing that the breach was not only intentional, but fraudulent or with malice or oppression, i.e., an intent to harm or despicable conduct in conscious disregard of another’s rights, etc.

For the reasons explained above, the court OVERRULES the demurrer to the 5<sup>th</sup> cause of action.

### **Conclusion**

The court SUSTAINS the demurrer to the 4<sup>th</sup> cause of action and OVERRULES the demurrer to the 5<sup>th</sup> cause of action. Because this is the first demurrer which the court has considered, the court grants Plaintiff leave to amend solely regarding the timeliness 4<sup>th</sup> cause of action. However, the remainder of the complaint, i.e., all causes of action except the 4<sup>th</sup>, are not affected and require no amendment. Plaintiff therefore need not amend the complaint as to any cause of action other than the 4<sup>th</sup>. Should Plaintiff not amend the allegations regarding the timeliness of the 4<sup>th</sup> cause of action, this will not affect the remainder of the complaint or other causes of action they will remain operative and at issue.

Plaintiff shall prepare and serve a proposed order consistent with this tentative ruling within five days of the date set for argument of this matter. Opposing party shall inform the preparing party of objections as to form, if any, or whether the form of order is approved, within five days of receipt of the proposed order. The preparing party shall submit the proposed order and any objections to the court in accordance with California Rules of Court, Rule 3.1312.

**2. 25CV04758, Garcia v. LCS Community Employment, LLC**

**Motion for Severance of Plaintiffs' Actions or, in the Alternative, Separate Trials for Each Plaintiff CONTINUED** to the law and motion calendar of August 12, 2026, in Department 16 at 3:00 p.m. because there is no proof of service showing notice of this hearing. Prior to the new hearing, the moving party must file timely proof of service in accord with California Rule of Court 3.1300, demonstrating service of notice of the hearing.

**Facts**

Plaintiffs complain that when they were employees of Defendant, the latter violated the Fair Employment and Housing Act ("FEHA") in its treatment of both and ultimately wrongfully terminated both Plaintiffs for asserting rights under FEHA, reporting improper working conditions and treatment, and reporting improper treatment of patients at Defendant's facility. They allege that Plaintiff Claudia Garcia ("Garcia") informed Defendant that she had cancer and also was injured during the course and scope of her employment, both of which required medical treatment and accommodation, but Defendant failed to make efforts to accommodate her conditions. They also allege that she reported unsafe and improper treatment of patients. Defendant, however, allegedly retaliated by terminating her after falsely accusing her of patient abuse and of failing to inform it of her medical treatments. With respect to Plaintiff Veronica Elizabeth Cortes ("Cortes"), they allege that Cortes reported to the "health department" Defendant's failure to maintain food safety and also made complaints about sexual harassment, after which Defendant terminated her in retaliation.

**Motion**

Defendant in its Motion for Severance of Plaintiffs' Actions or, in the Alternative, Separate Trials for Each Plaintiff moves the court to sever the Plaintiffs' claims or trial of those claims.

There is no opposition.

**Service and Notice**

There is no proof of service showing service of the filed motion or notice of the hearing date. The only proof of service is the one attached to the moving papers, showing service of the papers prior to filing and thus prior to obtaining a hearing date. Accordingly, the moving party has failed to file complete proof of service showing notice that the motion was filed or showing notice of the hearing. Proof of service for a motion must be filed at least 5 court days prior to the hearing. California Rule of Court ("CRC") 3.1300(c).

Accordingly, the court must CONTINUE the motion.

**3. 25CV05706, Doe v. State of California**

**Demurrer OVERRULED.**

**Facts**

Plaintiffs complain that when they were minor foster children under the care and supervision of Defendant and monitored by an employee of Defendant who was a mandated reporter for child abuse, they suffered sexual abuse at the hands of their foster parents. They contend that the

employee and Defendant were aware of the abuse but that neither reported the abuse or took measures to prevent it.

### **Motion**

Defendant demurs to the complaint, and to the one identified cause of action therein, on the ground that it fails to state facts sufficient to constitute a cause of action. It contends that Plaintiffs have not pleaded compliance with the Government Claims Act (“GCA”) and that the complaint is untimely based on the statute of limitations related to the denial of their government claim.

Plaintiffs oppose the demurrer, arguing that because of the nature of the claims they do not need to allege compliance with the GCA and there is no statute of limitations.

### **Authority**

A demurrer can only challenge a defect appearing on the *face* of the complaint, exhibits thereto, and judicially noticeable matters. Code of Civil Procedure (“CCP”) section 430.30; *Blank v. Kirwan* (1985) 39 Cal.3d 311, 318. The grounds for a demurrer are set forth in CCP section 430.10. One of the grounds, in subdivision (e), is the general demurrer that the pleading fails to state facts sufficient to constitute a cause of action.

Demurrer for failure to state facts sufficient to constitute a cause of action is a general demurrer, which must fail if there is *any* valid cause of action. CCP section 430.10(e); *Quelimane Co., Inc. v. Steward Title Guar. Co.* (1998) 19 Cal.4th 26, 38-39; *Fox v. JAMDAT Mobile, Inc.* (2010) 185 Cal.App.4th 1068, 1078 (“as long as a complaint consisting of a single cause of action contains any well-pleaded cause of action, a demurrer must be overruled even if a deficiently pleaded claim is lurking in that cause of action as well”).

Failing to plead compliance with, or a basis for being excused from, the Government Claims Act (“GCA”) may make a complaint subject to a general demurrer. *State of Calif. v. Sup.Ct.* (2004) 32 Cal.4th 1234, 1239; *Wood v. Riverside General Hosp.* (1994) 25 Cal.App.4th 1113; *Briggs v. Lawrence* (1991) 230 Cal.App.3d 605.

Under the GCA, generally, no party may maintain a suit for money or damages against a governmental entity without first presenting to the entity a formal claim, and the claims have been rejected or deemed rejected by the passage of time. Government Code (“Gov. Code”) sections 912.4, 945.4; see *Munoz v. State of California* (1995) 33 Cal.App. 4th 1767, 1776. Statutory exceptions are specified in Gov. Code section 905.

Plaintiff relies on CCP section 340.1, as amended by AB 218 in 2019, effective January 1, 2020, and then amended again, effective January 1, 2023, to allege that the claims are exempt from the GCA requirements and applicable statutes of limitations. Language regarding the specific statute of limitations for claims occurring prior to January 1, 2024, is now found in CCP section 340.11.

CCP section 340.1 governs claims for “childhood sexual assault” and provides specific provisions on specific issues for such claims. These include provisions which, among other things, control the statute of limitations for such claims and specify that no GCA claim is required for such claims. It states, in pertinent part and with emphasis added,

- (a) There is *no time limit* for the commencement of any of the following actions for recovery of damages suffered as a result of childhood sexual assault:
  - (1) An action against any person for committing an act of childhood sexual assault.
  - (2) An action for liability against any person or entity who owed a duty of care to the plaintiff, if a wrongful or negligent act by that person or entity was a legal cause of the childhood sexual assault that resulted in the injury to the plaintiff.

(3) An action for liability against any person or entity if an intentional act by that person or entity was a legal cause of the childhood sexual assault that resulted in the injury to the plaintiff.

...

(c) “Childhood sexual assault” as used in this section includes any act committed against the plaintiff that occurred when the plaintiff was under the age of 18 years and that would have been proscribed by [various specific statutory provisions]. This subdivision does not limit the availability of causes of action permitted under subdivision (a), including causes of action against persons or entities other than the alleged perpetrator of the abuse.

...

(p) This section applies to any claim in which the childhood sexual assault occurred on and after January 1, 2024. Notwithstanding any other law, a claim for damages based on conduct described in paragraphs (1) through (3), inclusive, of subdivision (a), in which the childhood sexual assault occurred on or before December 31, 2023 may only be commenced pursuant to the applicable statute of limitations set forth in existing law as it read on December 31, 2023.

(q) *Notwithstanding any other law, ... a claim for damages described in paragraphs (1) through (3), inclusive, of subdivision (a), is not required to be presented to any government entity prior to the commencement of an action.*

The court notes that the section was amended again effective January 1, 2024, but as noted in the provision itself and quoted above, the applicable language was the version in effect up through December 31, 2023, or now set forth in CCP section 340.11. That latter provision governs actions for conduct occurring prior to January 1, 2024, and the language states, in pertinent part,

(a)(1) Notwithstanding Section 340.1, in an action for recovery of damages suffered as a result of childhood sexual assault that occurred before January 1, 2024, the time for commencement of the action shall be within 22 years of the date the plaintiff attains the age of majority or within five years of the date the plaintiff discovers or reasonably should have discovered that psychological injury or illness occurring after the age of majority was caused by the sexual assault, whichever period expires later...

(q) Notwithstanding any other law, a claim for damages described in subparagraphs (A) to (C), inclusive, of paragraph (1) of subdivision (a) that has not been litigated to finality and that would otherwise be barred as of January 1, 2020, because the applicable statute of limitations, claim presentation deadline, or any other time limit had expired, is revived, and these claims may be commenced within three years of January 1, 2020. A plaintiff shall have the later of the three-year time period under this subdivision or the time period under subdivision (a) as amended by the act that added this subdivision.

(r) The changes made to the time period under subdivision (a) of Section 340.1 by Chapter 861 of the Statutes of 2019 apply to and revive any action commenced on or after the date of enactment of that act, and to any action filed before the date of enactment, and still pending on that date, including any action or causes of action that would have been barred by the laws in effect before the date of enactment.

(s) Notwithstanding any other law, including Chapter 1 of Part 3 of Division 3.6 of Title 1 of the Government Code (commencing with Section 900) and Chapter 2 of Part 3 of

Division 3.6 of Title 1 of the Government Code (commencing with Section 910), *a claim for damages* described in paragraphs (1) to (3), inclusive, of subdivision (a), *is not required* to be presented to *any government entity* prior to the commencement of an action.

### **Judicial Notice**

Defendant seeks judicial notice of various court records and other state records. The court may judicially notice these documents, the contents, and the purported legal effect but it may not judicially notice the truth of factual assertions made therein. With this limitation, the court grants the request.

Plaintiffs seek judicial notice of legislature bills and legislative history records. The court also grants this request.

### **Discussion**

CCP sections 340.1 and 340.11 unequivocally control here and make it clear that Plaintiffs' complaint is timely and that they did not need to comply with the claims requirement. There is no dispute regarding the language of these provisions. This is a claim for childhood sexual assault, which these provisions expressly govern, and the complaint was brought within the deadlines set forth in the provisions. They also state, unequivocally, that Plaintiffs do not need to bring a claim in compliance with the GCA.

Defendant's terse opening memorandum of points and authorities ("Ps&As") completely fails to mention either of these provisions, much less acknowledge or discuss their language and application. Indeed, it appears from the opening papers that Defendant is not even aware of the existence of these controlling statutory provisions. It argues, without addressing these provisions, that "Plaintiffs have, in fact, not complied with the requirements of the Government Claims Act..." Ps&As 2:10-11. It then asserts, *based entirely on the law governing claims under the GCA*, that the complaint is untimely because Plaintiffs failed to bring the complaint within the deadlines for doing so after denial of a GCA claim.

In its reply, Defendant does discuss CCP sections 340.1 and 340.11 for the first time, claiming that Plaintiffs are confused about the nature of the demurring argument. It asserts that Defendant is demurring on the basis that Plaintiffs did present a claim and then failed to bring this action within the required time after the denial of the claim.

Regardless of Defendant's discussion or understanding of CCP sections 340.1 and 340.11, Defendant's argument is unpersuasive. The governing statutes, CCP section 340.1 and 340.11, unequivocally control, make it clear that *Plaintiffs do not need to comply with the GCA*, and set forth the applicable limitations periods. Given the absoluteness and clarity of sections 340.1 and 340.11, that is the end of the analysis. Since no claim in compliance with the GCA is required, and since sections 340.1 and 340.11 set forth the controlling law on the limitations periods, the law governing GCA claims and limitations periods related to such claims is irrelevant and simply does not apply. Even though Plaintiffs did present a claim, given the clear and controlling law, they did not need to do so and since they did not need to do so, the law governing the claims has no bearing.

### **Conclusion**

For the reasons explained above, statutory law makes it clear that the complaint is timely and that Plaintiffs did not need to comply with the GCA claim requirements. The court **OVERRULES** the demurrer.

The prevailing party shall prepare and serve a proposed order consistent with this tentative ruling within five days of the date set for argument of this matter. Opposing party shall inform the preparing party of objections as to form, if any, or whether the form of order is approved, within

five days of receipt of the proposed order. The preparing party shall submit the proposed order and any objections to the court in accordance with California Rules of Court, Rule 3.1312.

4. **25CV06360, Boyda v. Day**

**Motion to Quash DROPPED.**

**Demurrer DROPPED.**

These are moot as a result of the filing of Plaintiff's first amended complaint and, moreover, there are other procedural problems as noted below.

**Facts**

On March 6, 2026, Plaintiff filed a verified first amended complaint ("FAC"). He identifies causes of action for Declaratory Relief, Conversion, Intentional Interference with Prospective Economic Advantage, Recovery of Specific Property/Claim and Delivery, Accounting. He complains that Defendants breached an agreement, interfered with his economic relations with others, and improperly kept certain material with respect to a "multi-luthier guitar project" (the "Project") which Plaintiff had conceived. He alleges that he created the Project involving Defendants and several luthiers in other states, with all coordinated in the Project, and he selected the material at issue, unique wood for the instruments (the "Material"), he paid Defendants to distribute portions of the Material to the luthiers, the members of the Project would fabricate instruments sets for the Project, and Plaintiff directed the selections and distributions. He also alleges that he was the sole owner of the Material to be used. However, he complains, after a dispute, not clarified, arose between the parties, he informed Defendants that he was removing them from the Project and that they were to return the portion of the Material not distributed per his direction, but Defendants improperly retained some of the Material for themselves. He also makes allegations regarding litigation in Pennsylvania, where Defendants allegedly reside or are located, and UCC Information Statements regarding a security agreement. He seeks a declaration that he owns the Material at issue and Defendants do not own it and that he has a right to immediate possession of the Material; damages for Defendants' conversion of the Material; damages for interfering with his economic relations or prospective advantages by inhibiting the completion of the instruments which he sought as part of the Project; return of the Material; and an accounting of the materials.

**Original Complaint**

The original complaint does not assert the causes of action identified in the FAC, it does not seek the damages or return of Material as set forth in the FAC, and it does not contain the detailed allegations regarding the Project and the Material. It does include some similar allegations and appears to refer to the same general set of events but does not include many of the factual allegations in the FAC and does not discuss conversion or damages regarding the Material. Instead, it sought a declaration that the UCC statements are misleading and void, sought their removal from public record, sought an affirmation of a security interest, and sought costs for UCC enforcement.

**Motions**

Defendants move the court to quash service of the summons and complaint pursuant to Code of Civil Procedure ("CCP") section 418.10. They contend that this court lacks personal jurisdiction.

Defendant also demurs to the complaint, as an "alternative" to seeking to quash service of the summons and complaint.

**Demurrer**

The FAC renders the demurrer moot, regardless of the merits of Defendants' motion to quash for lack of personal jurisdiction. The FAC sets forth substantially new and different facts,

causes of action, and relief. This fundamentally alters the analysis. Accordingly, the court DROPS the demurrer. Defendants must file a new demurrer should they seek to challenge the action on this basis.

### **Motion to Quash**

Code of Civil Procedure (“CCP”) section 418.10 allows a defendant to file a motion to quash service of summons or stay or dismiss the action. It states that a party may 1) seek to quash for lack of personal jurisdiction; 2) stay or dismiss due to inconvenient forum; or 3) dismiss pursuant to Title 8, Chapter 1.5 (dismissal for delay in prosecution).

As Defendants themselves not, the court in *Hardell v. Vanzyl* (2024) 102 Cal.App.5th, 960, at 968, explained that filing of an amended complaint may render a pending motion to quash moot if the amended complaint raises materially different facts and causes of action. It explained,

there may be circumstances in which the filing of an amended complaint would moot a pending motion to quash. For example, because the existence of specific jurisdiction is tied to the claims asserted, if the amended pleading advanced different claims or identified additional underlying facts, it could moot a jurisdictional analysis based on the allegations of the prior pleading. [Citation.]

In this instance, as explained regarding the demurrer and as detailed in the facts above, the FAC sets forth substantially new and different facts, causes of action, and requested relief not found in the original complaint. The court finds that the FAC also renders this motion MOOT. Defendants must file a new motion should they seek to challenge the action on this basis.

### **Note Regarding Procedural Matters, Notice, and Filings**

The court further notes that the procedural posture of the case at this time regarding demurrer and motion to quash is, to put it bluntly, a jumbled and unclear quagmire. This is a further basis for the court to find the matters moot and require new filings should the parties wish to proceed. Defendants filed the demurrer and motion attacking the original complaint, before Plaintiff filed the operative FAC. Defendants have not, as far as the court can discern, filed a proof of service for the motion to quash or demurrer, much less one showing the hearing date. The court has discovered that in several filings which Plaintiff submitted from November 2025 through March 2026 that he acknowledges that Defendants had filed these matters and that he is aware of the hearing date of March 25, 2026. However, Plaintiff’s only official opposition to the motion to quash was filed on November 18, 2025, *before* Defendants filed the motion to quash on November 25, 2025. Plaintiff filed various papers filed after that which mention or discuss the demurrer and motion to strike, but they are not opposition papers, and they contain different hearing dates and appear to be related to procedural matters or Plaintiff’s own requests for various relief or orders. In this, he also argues that the motion to quash was not properly filed, which would appear be true at the time that he filed his opposition, since Defendants had not even filed their motion at that time. Plaintiff also makes general assertions that the court should proceed with the hearing on March 25, 2026, and that the FAC does not render the motion or demurrer moot, but his papers are not persuasive and they are unclear. It is also not clear what papers the court is to consider as Plaintiff’s opposition, rendering it impossible to determine what the court should consider and whether there is proper notice to Defendant, in addition to problems regarding notice to Plaintiff. The court certainly finds it improper to consider a motion for which there is no proof of service, which addresses a prior pleading which was replaced after the motion was filed, and where the only actual opposition was filed before the motion itself was even filed. These issues add to the confusion, uncertainty over notice to either party, uncertainty over what documents the court must consider,

and uncertainty over the applicable analysis. The court cannot be certain that any ruling on the merits of these matters made at this time would be correct, substantively or procedurally.

**Conclusion**

The court orders the demurrer and motion to quash to be DROPPED as moot. The court will not consider the merits of either and Defendants must, should they wish to do so, file a new demurrer and new motion to quash directed to the FAC.