

# CONNOLLY v DE LA CRUZ

23CV46549

## PLAINTIFF'S MOTION TO SUBSTITUTE CAIN RANCH AS PLAINTIFF

This civil action stems from a lengthy and ongoing dispute concerning the upkeep and maintenance of an easement with associated drainage improvements, including culverts and ditches. Plaintiff Mark V. Connolly ("Connolly") filed this action to determine the parties' respective rights and duties as well as to Quiet Title to an interest in land entitled the Cain Easement (a 16-1/2 foot strip of land north of the Cain Ranch property line) ("Cain Easement.") Connolly claims the Cain Easement is for cattle herding and grazing.

Now before the Court is Connolly's motion to either substitute Cain Ranch, LLC in as plaintiff or to allow the matter to proceed with Connolly as plaintiff.

As pointed out in the opposition, there is no evidence that Connolly has transferred any interest in the property at issue to Cain Ranch, LLC. Defendant does not object to Connolly remaining the named plaintiff.

The motion to substitute is **DENIED**. Mark V. Connolly shall remain the named plaintiff in this case. The denial is without prejudice to renew the motion if evidence of transfer of interest is included.

The clerk shall provide notice of this ruling to the parties forthwith. As no change in pleadings is occurring, the Court does not require any formal Order but will sign an Order in conformity with this ruling if plaintiff submits one.

# COOK v ALBORATI, et al

25CV47955

## PLAINTIFF'S COUNSEL'S MOTION TO BE RELIEVED

Sisneros Graziani LLP seeks to be relieved as counsel of record for Plaintiff Reno Cook ("Plaintiff.")

The Court has discretion to allow an attorney to withdraw, and such a motion should be granted provided that there is no prejudice to the client and it does not disrupt the orderly process of justice. (*Ramirez v. Sturdevant* (1994) 21 Cal.App.4th 904, 915.) California Rules of Court, rule 3.1362 requires (1) a notice of motion and motion directed to the client (Civil Form MC-0510); (2) a declaration stating in general terms and without compromising the confidentiality of the attorney-client relationship why a motion under Code of Civil Procedure § 284(2) is brought instead of filing a consent under section 284(1) (Civil form (MC052)); (3) service of the notice of motion and motion, the declaration, and the proposed order on the client and on all other parties who have appeared in the case; and (4) a proposed order relieving counsel (Civil form (MC-053)). The Court may delay the effective date of the order relieving counsel until proof of service of a copy of the signed order on the client has been filed with the court. (Cal. Rules Court, rule 3.1362(e).)

Attorney Roger L. Sisneros ("Sisneros") advises that differences of opinion relative to the handling of case have arisen "which make impossible a satisfactory relationship or representation on behalf of said plaintiff. Said differences have produced a mutual loss of faith between plaintiff and declarant, and in view of said mutual loss of faith, declarant believes that plaintiff's best interests would hereafter be better served if plaintiff was to be represented by other counsel." Sisneros has informed of the intention to withdraw as counsel repeatedly via email and has received responses to those emails, indicating that Plaintiff is aware of instant motion and that the email in use is correct. Sisneros states that he has served Plaintiff by mail and FedEx, signature required, to his current mailing address and via email.

Counsel did not file the mandatory proposed order on Civil Form MC-053 with all hearing dates currently scheduled in this matter. Accordingly moving **counsel is ordered to file the appropriate order within five (5) days of this ruling. The Court will delay the effective date of the order Granting until proof of service of a copy of the signed order on Plaintiff has been filed with the Court.**

The clerk shall provide notice of this ruling to the parties forthwith.

# ECHAVARRIA v FCA US LLC, et al

25CV48122

## DEFENDANT’S DEMURRER AND MOTION TO STRIKE

This matter involves claims surrounding a car warranty brought by Alexis M. Echavarria (“Plaintiff”) against FCA US, LLC (“FCA”), Central Valley Chrysler Jeep Dodge Ram (“Chrysler”) and Does 1-10. Now before the Court is a demurrer seeking to dismiss certain causes of action and a motion to strike.

Plaintiff has not filed an opposition which the Court may deem as consent to the granting of the motion. (Cal Rules of Court 8.54.) The Court, however, exercises its discretion to consider the merits of the motion.

### I. Facts

On or about March 19, 2024, Plaintiff entered into a warranty contract with FCA regarding a 2017 Jeep Grand Cherokee (hereafter “Vehicle”), which was manufactured and or distributed by FCA. (Complaint ¶ 7.) The warranty was a “bumper to bumper warranty.” (*Id.* ¶ 8, Ex. A.) At some point, defects and nonconformities to warranty manifested themselves within the applicable express warranty period, including but not limited to, engine defects, transmission defects, and electrical defects. (*Id.* ¶ 12.)

Plaintiff alleges that FCA knew that certain vehicles, include the Vehicle, were subject to defects that can result loss of power, stalling, engine running rough, engine misfires, failure or replacement of the engine, since prior to Plaintiff purchasing the Vehicle (the “Engine Defect”) (*Id.* ¶ 16.) Plaintiff alleges that the Engine Defect is a safety concern because it can suddenly affect the driver’s ability to control the vehicle or cause a non-collision vehicle fire, among other safety hazards. (*Id.* ¶ 17)

Plaintiff alleges the vehicle is now of *de minimus* value and seeks damages.

### II. Legal Standards

#### A. Demurrer

“A demurrer tests the sufficiency of a complaint and admits all facts properly pleaded.” (*Setliff v. E.I. Du Pont de Nemours & Co.* (1995) 32 Cal. App. 4<sup>th</sup> 1525, 1533.) The court assumes the truth of the allegations asserted but does not assume the truth of “contentions, deductions, or conclusions of law.” (*California Logistics, Inc. v. State of California* (2008) 161 Cal. App. 4<sup>th</sup> 242, 247.) The court can further look at those facts that “reasonably can be inferred from those expressly pleaded, and matters of which judicial notice has been taken.” (*MKB Management, Inc. v. Melikian*, (2010), 184 Cal.App.4<sup>th</sup> 796, 802.) If a complaint does not sufficiently state a cause of action, “but

there is a reasonable probability that a defect can be cured by amendment, leave to amend must be granted.” (*Quelimane Co. v. Stewart Title Guaranty Co.* (1998) 19 Cal. 4<sup>th</sup> 26, 38.)

FCA asserts that the Plaintiff’s Complaint is subject to demurrer pursuant to Civ. Code 430.10 (e) (failure to state a claim).

Before filing a demurrer, the demurring party is required to meet and confer “in person, by telephone, or by video conference with the party who filed the pleading that is subject to the demurrer for the purposes of determining whether an agreement can be reached through a filing of an amended pleading that would resolve the objections to be raised in the demurrer.” (Code Civ. Proc. § 430.41(a).)

## **B. Motion to Strike**

A motion to strike lies either to strike: (1) any “irrelevant, false or improper matter inserted in any pleading”; or (2) any pleading or part thereof “not drawn or filed in conformity with the laws of this state, a court rule or order of court.” (CCP § 436.) A motion to strike may also be used to strike allegations related to an improper request for relief. (*Saberi v. Bakhtiari* (1985) 169 Cal.App.3d 509, 517.) A motion to strike can be used to attack the entire pleading, or any part thereof—i.e., even single words or phrases. (*Warren v. Atchison, Topeka & Santa Fe Ry. Co.* (1971) 19 Cal.App.3d 24, 40.)

## **III. Discussion**

### **A. Demurrer**

#### **1. Failure to state a “parts and literature” claim.**

FCA asserts that the Third Cause of Action for violation of Civil Code 1793.2(A)(3) fails to state facts sufficient to support an additional and distinct claim for breach of the Song-Beverly Consumer Warranty Act under Civil Code section 1793.2, subdivision (a)(3).

Civil Code 1793.2(a)(3) requires a manufacturer to make sufficient literature and repair parts available for repair facilities to make such repairs. Plaintiff alleges that FCA “failed to make available to its authorized service and repair facilities sufficient service literature and replacement parts to effect repairs during the express warranty period.” (Complaint ¶ 52.) This is a pleading of ultimate fact sufficient to meet the standard on demurrer. (*Veronica v. Toyota Motor Sales*, 2026 Cal.Super.LEXIS 4944.)

Accordingly, the DEMURRER AS TO THE THIRD CAUSE OF ACTION IS **OVERRULED**.

#### **2. Fraudulent Concealment**

FCA also demurs to Plaintiffs’ claim for Fraudulent Inducement- Concealment. Defendant demurs on the grounds that the cause of action does not meet the heightened pleading requirements for fraud.

To establish a claim for fraudulent concealment, a plaintiff must plead and prove the following elements: (1) concealment or suppression of a material fact; (2) by a defendant with a duty to disclose the fact to the plaintiff; (3) intent to defraud by intentionally concealing or suppressing the fact; (4) the plaintiff's lack of knowledge of the concealed or suppressed fact and resulting reliance; and (5) damages sustained as a direct result of the concealment or suppression. (*Hambridge v. Healthcare Partners Medical Group, Inc.* (2015) 238 Cal.App.4th 124, 162, quoting *Graham v. Bank of America, N.A.* (2014) 226 Cal.App.4th 594, 606.)

A cause of action for fraud based on nondisclosure or concealment must also establish that the defendant had a legal duty to disclose the withheld facts. (*OCM Principal Opportunities Fund, L.P. v. CIBC World Markets Corp.* (2007) 157 Cal.App.4th 835, 845.) Absent a fiduciary relationship between the parties, courts recognize three circumstances where nondisclosure or concealment may constitute actionable fraud: (1) where the defendant possesses exclusive knowledge of material facts unknown to the plaintiff; (2) where the defendant actively conceals a material fact from the plaintiff; and (3) where the defendant makes partial representations while suppressing other material facts. (*Bigler-Engler v. Berg, Inc.* (2017) 7 Cal.App.5th 276, 311, quoting *LiMandri v. Judkins* (1997) 52 Cal.App.4th 326, 336.)

Here Plaintiff alleges that FCA concealed the known Engine Defect. Plaintiff alleges that Defendant had a duty to disclose this fact because it had superior knowledge of the fact due to "pre-production testing data, early consumer complaints about the Engine Defect made directly to FCA and its network of dealers, aggregate warranty data compiled from FCA's network of dealers, testing conducted by FCA in response to these complaints, as well as warranty repair and part replacements data received by FCA from FCA's network of dealers, amongst other sources of internal information." (Complaint ¶ 67.) Plaintiff alleges that in failing to inform Plaintiff of Engine Defect, Defendant intended to mislead Plaintiff and alleges she lacked any knowledge of Engine Defect and relied on the representations made in Defendant's materials (which did not disclose the Engine Defect) in purchasing the Vehicle. (*Id.* ¶¶ 69-70.) Finally, Plaintiff alleges that she suffered damages as a result of the concealment.

FCA however argues that the claim is not pled with specificity, including the date, time and place of the concealment. However, "less specificity is required where the defendant necessarily possesses the information." (*Bajaras v. Ford Motor Co.* 2025 Cal.Super.LEXIS 1185, \*3-4, citing *Committee on Children's Television, Inc. v. General Foods, Inc.* (1983) 35 Cal.3d. 197, 216-217.) Further, "it is not practical to require allegations of specific facts showing how, when, and by what means something did not happen." (*Id.*) The Court finds the Plaintiff adequately pleads the elements of fraudulent concealment with enough particularity at this stage.

FCA also argues that the fraudulent concealment claim is barred because there are no allegations of corporate ratification of the fraudulent concealment. Such allegations are not required where, as here, the gist of Plaintiff's claims is that FCA itself knew of the material facts and fraudulently concealed it from Plaintiff. No further allegation of corporate ratification is required. (See *Taneson v. FCA US, LLC* 2025 Cal.Super LEXIS 57597; *Grams v. FCA US LLC*, 2025 Cal.Super.LEXIS 76473.)

Accordingly, the DEMURRER AS TO THE SIXTH CAUSE OF ACTION IS **OVERRULED**.

**B. Motion to Strike**

Punitive damages are recoverable where a plaintiff proves “by clear and convincing evidence that the defendant has been guilty of oppression, fraud, or malice.” (Civ. Code, § 3294.) Relevant to this case, “malice” means conduct which is intended by the defendant to cause injury to the plaintiff or despicable conduct which is carried on by the defendant with a willful and conscious disregard of rights or safety of others. (*Ibid.*) “Oppression” means conduct that subjects a person to “cruel and unjust hardship in conscious disregard of that persons’ rights.” (Civ. Code. §3294(c)(2).)

The proper standard for a motion to strike punitive damages is whether plaintiff has alleged “ultimate facts” showing an entitlement to exemplary damages. (*Clauson v. Superior Court* (1998) 67 Cal.App.4th 1253, 1255.) Here, the FAC states that Defendant was aware of the Engine Defect prior to Plaintiff’s purchase of Vehicle but chose not to disclose it to consumers. Plaintiff alleges that the Engine Defect was serious, “can suddenly affect the driver’s ability to control the vehicle or cause a non-collision vehicle fire. Even more troubling, the Engine Defect can cause the vehicle to fail without warning while the Vehicle is moving at highway speeds.” (FAC ¶ 70.) These allegations, along with Plaintiffs’ claims for fraudulent concealment, are sufficient to state claims for punitive damages based on fraud or malice.

Accordingly, DEFENDANT’S MOTION TO STRIKE REFERENCE TO PUNITIVE DAMAGES IS **DENIED**.

The clerk shall provide notice of this ruling to the parties forthwith. Defendant to submit formal Orders complying with Rule 3.1312 in conformity with this Ruling.