

**Judge Mosbarger – Law & Motion – Wednesday, March 4, 2026 @ 9:00 AM  
TENTATIVE RULINGS**

**1. 21CV00888 DAUN, DOROTHY ET AL V. AERO ACCESSORIES, INC ET AL**

*EVENT: Defendant Irwin International Inc. dba Aircraft Spruce & Specialty Company's Motion for Summary Judgment, or in the Alternative, Summary Adjudication*

Plaintiffs' Joint Objections to Evidence Submitted by Defendant Irwin International Inc. dba Aircraft Spruce & Specialty Company ("Defendant" herein) are overruled. Defendant's Objections to Plaintiffs' Evidence in Opposition to the Motion are overruled. The Court finds that a triable issue of material fact exists as to whether a design defect and/or manufacturing defect in the fiber gasket part FM-07 caused the subject accident. [See Defendant's Separate Statement of Undisputed Material Facts Nos. 4, 9, 10, 11, 12, 16, 21, 23, 24, 26, 27, 28 and 29, all evidence in support thereof, and Plaintiffs' Response thereto; see also, Plaintiffs' Additional Material Facts Nos. 40, 42, 45 and 48, all evidence in support thereof, and Defendant's Response thereto; see also, Declaration of Rory Westphal at ¶¶8, 31-34, attached as Exhibit 11 to the Defendant's Compendium of Exhibits in Support of Motion; and see also, Declaration of John W. Morris, Jr. at ¶¶10-13, 16, 20, attached as Exhibit I to the Plaintiffs' Joint Index of Exhibits in Support of Opposition]. The Motion is denied.

**2. 22CV02762 PRYDE, DONALD C V. PRYDE, GARY A ET AL**

*EVENT: Defendant's Demurrer to Plaintiff's Amended Answer*

The Court finds that failure to state a cause of action is an affirmative defense that has the same force as a general demurrer and is specifically authorized under *Code of Civil Procedure* §430.10(e), (f). See also, *Bracker v. American National Food* (1955) 133 Cal.App.2d 338, 340. Thus, the Demurrer to the First Affirmative Defense – Failure to State a Cause of Action, is overruled.

In the context of this case, the alleged defense of "failure to mitigate" could include conduct such as mismanagement, waste, failure to preserve property, unnecessary delay, or actions contributing to foreclosure risk or loss of equity is directly relevant to how the Court exercises that equitable discretion. The Court agrees with the Plaintiff/Cross-Defendant that while a partition action may ultimately include an accounting, that does not render mitigation-related conduct irrelevant. Thus, the Demurrer to the Fourth Affirmative Defense – Failure to Mitigate Damages, is overruled.

Finally, as to the equitable defenses, the Court finds that "new matter" is "some independent reason why plaintiff should be barred from recovery, even if everything alleged in the complaint was true." R. Weil & I. Brown, *California Practice Guide: Civil Procedure Before Trial* 6:430 (Rutter Group). To withstand scrutiny for lack of specificity, an affirmative defense need only provide a plaintiff with notice of a potentially meritorious defense. *Hata v. Los Angeles County Harbor / UCLA Medical Center*, (1995) 31 Cal.App.4th 1791, 1805-06 [overruled on other grounds relating to statutory immunities in the Government Claims Act in *Quigley v. Garden Valley Fire Protection Dist.* (2019) 7

Ca.5<sup>th</sup> 798]. In determining whether the defendant has put the plaintiff on notice of a potentially meritorious defense, the answer must be read in the context of the complaint allegations to which it responds. *South Shore Land Co.*, *supra*, (1964) 226 Cal.App.2d at 734-36 (the determination of the sufficiency of the answer requires an examination of the complaint because its adequacy is with reference to the complaint it purports to answer.) Defendant is correct in that an affirmative defense cannot be pled in the form of "terse legal conclusions." *FPI Development, Inc. vs. Nakashima* (1991) 231 Cal.App.3d 367, 384. In order to state an affirmative defense, the answer must set forth facts "as carefully and with as much detail as the facts which constitute the cause of action and are alleged in the complaint." *Id.*; See also Weil & Brown, *supra* at 6:459. Because some additional factual pleading is required for affirmative defenses when they involve "new matter", each of the affirmative defenses must be analyzed in relation to the allegations in here, the First Amended Cross-Complaint.

Having reviewed the First Amended Cross-Complaint and the allegations therein, the Court finds that Plaintiff/Cross-Defendant has failed to sufficiently allege the Affirmative Defenses of Waiver and Estoppel but has sufficiently alleged the Affirmative Defenses of Laches and Unclean Hands. As such, the Demurrer to the Sixth Affirmative Defense – Waiver and Seventh Affirmative Defense – Estoppel, are sustained. The Demurrer to the Tenth Affirmative Defense – Laches and Eleventh Affirmative Defense – Unclean Hands is overruled.

The Court grants leave to amend. Any Amended Answer to the First Amended Cross-Complaint shall be filed and served within 14 days' notice of this Order. Counsel for the Defendant/Cross-Complainant shall prepare and submit a form of order consistent with this ruling within two weeks.

### **3. 25CV00605 FREISE, RANDAL SCOTT V. FCA US, LLC ET AL**

#### *EVENT: Defendants' Motion for Judgment on the Pleadings*

Pursuant to *Code of Civil Procedure* §1005(b), a timely opposition was to be filed and served no later than February 19, 2026 [9 Ct days before the hearing]. Additionally, on February 20, 2026, counsel for the Defendant filed a Notice of Non-Opposition, confirming that there had been no timely opposition filed or served by the Plaintiff. In light of the non-opposition and the arguments presented in the moving papers, Defendant requested that the Court grant the Motion for Judgment on the Pleadings in its entirety. Also on February 20, 2026 (10 minutes later), an untimely Opposition was filed by the Plaintiff. While the Court acknowledges that the Opposition is untimely, the Court in its discretion intends to consider the arguments raised by Plaintiff in the Opposition. However, the Court will continue this matter to March 25, 2026 at 9:00 a.m. to allow Defendant an opportunity to file a Reply. The Reply is to be filed and served no later than March 18, 2026.

**4. 25CV04698 CITY OF GRIDLEY V. NUNES, RICHARD ET AL**

*EVENT: Petition for Order to Abate Substandard Building and Appoint Receiver*

The Petition is granted, and the Court will sign the form of order submitted by counsel. This matter remains set for a Status Conference on June 10, 2026 at 10:30 a.m.

**5-7. 25UD02010 HHAYS, INCORPORATED V. PELLO, NICK ET AL**

*EVENTS: (1) Motion to Strike Cross-Complaint*

*(2) Demurrer and Motion to Strike*

*(3) Status Conference*

Generally, a cross-complaint cannot be filed in an unlawful detainer action. The primary purpose of an unlawful detainer proceeding is to provide a summary process to determine the right to possession of the premises, and allowing cross-complaints would undermine this purpose by introducing extraneous issues that could delay resolution. *Knowles v. Robinson* (1963) 60 Cal.2d 620, 625 [“The remedy of unlawful detainer is designed to provide means by which the timely possession of premises which are wrongfully withheld may be secured to the person entitled thereto. The summary character of the action would be defeated if, by cross-complaint or counterclaim, issues irrelevant to the right of immediate possession could be introduced.”]. While there are some exceptions to the general rule, the Court finds that the exceptions are those that permit a defense not otherwise available to be raised in an unlawful detainer action, but none of the cases hold that a defendant may seek affirmative relief or bring in other parties as defendants seek to do here, by a cross-complaint. *Id* at 625-626. The Motion is granted and the Cross-Complaint filed on August 14, 2025 is hereby stricken. The Court also vacates the Status Conference set to trail the hearing on this Motion.