

**Judge Mosbarger – Law & Motion – Wednesday, April 29, 2026 @ 9:00 AM**  
**TENTATIVE RULINGS**

**1. 23CV00692 HINOJOSA, ISAIAH V. FORD MOTOR COMPANY ET AL**

*EVENT: Cross-Defendant Teichert, Inc.’s Demurrer to Defendant/Cross-Complainant County of Butte’s Cross-Complaint*

Defendant/Cross-Defendant A. Teichert & Son, Inc. dba Teichert Construction, named as Teichert, Inc.’s (Doe 1) (“Teichert” herein) Request for Judicial Notice is granted.

The position taken by Teichert is that *Code of Civil Procedure* §337.15’s definition of the term “action” applies to *Code of Civil Procedure* §337.1. However, the Court disagrees. *Code of Civil Procedure* §337.15 explicitly defines “action” to include actions for indemnity, whether express or implied, arising out of a person’s performance or furnishing of services or materials related to construction. This provision also allows for cross-complaints for indemnity to be filed in actions brought within the 10-year limitation period specified in *Code of Civil Procedure* §337.15. In contrast, *Code of Civil Procedure* §337.1, which governs actions related to patent deficiencies in construction, does not include a similar definition of “action” that encompasses indemnity claims. The absence of such language in *Code of Civil Procedure* §337.1 indicates that the Legislature did not intend for indemnity actions to be included within the scope of *Code of Civil Procedure* §337.1. Courts have emphasized that when terms are expressly included in one statute but omitted in another related statute, those terms should not be implied into the statute from which they were excluded. See, e.g., *Valley Crest Landscape Development, Inc. v. Mission Pools of Escondido, Inc.* (2015) 238 Cal.App.4th 468. Therefore, the Court concludes that contractual indemnity claims are not included within the scope of *Code of Civil Procedure* §337.1’s 4-Year Patent Statute of Repose and the Demurrer is overruled on this basis.

The Court finds that the Encroachment Permit (and specifically the indemnity provision therein) [See Cross-Complaint at Exhibit A, Page 2, Paragraph 7] is an enforceable contract for purposes of the County of Butte’s (“the County” herein) Cross-Complaint and claims of indemnification. See, *Robinson v. Magee* (1858) 9 Cal. 81, 83 [“A contract is a voluntary and lawful agreement, by competent parties, for a good consideration, to do or not to do a specified thing”]; *Civil Code* §2772 [“Indemnity is a contract by which one engages to save another from a legal consequence of the conduct of one of the parties, or of some other person.”] The Demurrer is overruled on this basis.

Finally, the Court finds that the County is not required to plead compliance with the Brown Act in order to maintain a cause of action for indemnity. The Brown Act, codified in *Government Code* §54950, governs the open meeting requirements for local legislative bodies and provides remedies for violations of its provisions, such as mandamus, injunctive relief, declaratory relief, or nullification of actions taken in violation of the Act. However, the Brown Act does not address or impose requirements related to indemnity claims, which are governed by separate legal principles. Indemnity claims are based on the equitable or contractual allocation of liability among parties who share responsibility for damages. The elements of a cause of action for indemnity include (1) fault on the part of the indemnitor and (2) resulting damages to the indemnitee for which

the indemnitor is contractually or equitably responsible. See, e.g., *Expressions at Rancho Niguel Assn. v. Ahmanson Developments, Inc.* (2001) 86 Cal.App.4<sup>th</sup> 1135, 1139. Here, the Court finds the allegations in the Cross-Complaint sufficient, and the Demurrer is overruled on this basis as well.

The Demurrer is overruled in its entirety. Counsel for the County shall submit a form of order consistent with this ruling within two weeks and Teichert shall file its Answer to the Cross-Complaint within 10 days' notice of this order.

#### **2-4. 25CV02798 TYLER, MATHEW V. STATE OF CALIFORNIA ET AL**

*EVENTS: (1) State Defendants' Demurrer*

*(2) Demurrer to Complaint by Former Senator Dahle, Assembly Member Gallagher, Deputy Legislative Counsel Benjamin Herzberger, and the Office of Legislative Counsel*

*(3) Plaintiff's Request for Extension or Continuation, and Plaintiff Motion to Withdrawal or Retract Filings*

The Court has received and reviewed the "Plaintiff Request for Extension or Continuation, and Plaintiff Motion to Withdrawal or Retract Filings" filed by Plaintiff Mathew Tyler on April 22, 2026. Based thereon: (1) the hearings on Defendants' Demurrers are continued one final time to June 10, 2026 at 9:00 AM; (2) Plaintiff's Motion for Judgment on the Pleadings, although never filed with the Court, is withdrawn; (3) Plaintiff's Motion for Preliminary Injunction to Enjoin the Illegal Expenditure of Public Funds is withdrawn, and the hearing on May 6, 2026 is vacated; (4) if Plaintiff's Supplemental Complaint is not filed and served fourteen (14) days prior to the next hearing date, but no later than 4:00 PM on May 27, 2026, the Court's prior Order Granting Plaintiff's Motion for Leave to File Supplemental Complaint, dated January 14, 2026 shall be vacated and stricken, with a new Order entered denying Plaintiff's Motion for Leave to File Supplemental Complaint, at which time the Defendants will have the ability to file a responsive pleading as to the original Complaint.

#### **5. 26CV00548 WILEY, BRIAN ET AL V. HAMILTON-WILEY, DEBORAH ET AL**

*EVENT: Demurrer to Complaint by Defendant Deborah Hamilton-Wiley*

California law requires strict compliance with the method for changing a beneficiary designation. *Estate of MacDonald* (1990) 51 Cal.3d 262, 272; *Cook v. Cook* (1941) 17 Cal.2d 639, 644. However, there are exceptions to the general rule, which the Court finds applicable here. See, *Watenpaugh v. State Teachers' Retirement System* (1959) 51 Cal.2d 675 ["It has been held that literal compliance with such regulations is not necessary to obtain a change of beneficiary where it is established that there was an intention to change and there was some affirmative action evidencing the exercise of the right to change (citations omitted)."]; and *Cook v. Cook* (1941) 17 Cal.2d 639, 648-649.

The Court finds that there are factual allegations to support an exception to the general rule of strict compliance. The Demurrer is thus overruled in this regard.

The Court finds that *Family Code* §2040(b)(2) authorized Decedent Mark N. Wiley (“Decedent” herein) to revoke the beneficiary designation upon providing notice. As alleged in the Complaint, Decedent was prevented from taking that action by Defendant Edward D. Jones & Company, L.P. (“Edward Jones” herein). [See Complaint at Paragraphs 6-7]. Thus, *Family Code* §2040 does not apply to bar this action and the Demurrer is overruled in this regard.

The Court finds that the First, Second and Third Causes of Action – Reformation are sufficiently pled [see Complaint at Paragraphs 6-8, 10-12, 16-19, 22-23], and the Demurrer to the First, Second and Third Causes of Action is overruled.

The Court finds that unjust enrichment is a viable cause of action. See, *Prakashpalan v. Engstrom, Lipscomb & Lack* (2014) 223 Cal.App.4th 1105, 1132; *Peterson v. Cellco Partnership* (2008) 164 Cal.App.4th 1583, 1593; *Hirsch v. Bank of America* (2003) 107 Cal.App.4th 708, 722. Additionally, the argument proffered by Defendant Deborah Hamilton-Wiley (“Defendant” herein) that because Defendant’s entitlement arises from statute - not equity - there can be no unjust enrichment, lacks merit. The Demurrer to the Fourth Cause of Action – Restitution (Unjust Enrichment) is overruled.

Because Defendant asserts only that because the substantive claims fail, the declaratory relief claim must also fail, and the Court has found that the substantive claims are properly pled, the Demurrer to the Fifth Cause of Action – Declaratory Relief, is overruled.

The Demurrer is overruled in its entirety. Counsel for Plaintiffs Brian Wiley and Kevin Wiley shall submit a form of order consistent with this ruling within two weeks and Defendant Deborah Hamilton-Wiley shall file her Answer to the Complaint within 10 days’ notice of this order.