

Antonio Zaranda Salinas v Juana Velazquez Moreno et al  
Hearing Date:  
Demurrer to SAC

Case No. 24CV00357  
June 18, 2025

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**PARTIES/ATTORNEYS**

Plaintiff	Antonio Zaranda Salinas	Self-Represented
Defendants	Juana Velzaquez Moreno Iran Yadira Zaranda Velazquez Michelle Stephanie Zaranda Velazquez	Emilie de la Motte  Carmel & Naccasha LLP

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**TENTATIVE RULING**

The court denies the request for judicial notice establishing decedent's issue for purposes of intestate succession. The remainder of the request for judicial notice is granted.

However, the court relies on the allegations contained within the Second Amended Complaint (SAC) in that Plaintiff alleges there are at least two other heirs, e.g., defendants Iran and Michelle. (SAC, ¶¶ 8-9.) In addition, the SAC identifies another grandson, Jose Dominquez (SAC, ¶ 15) who may also be an heir. Therefore, on the face of the complaint, it appears that plaintiff is not the only heir. As such, the Court is relying on the allegations in the complaint (rather than the request for judicial notice) and not making any determination on the heirship issue as a matter of fact. Because the SAC filed by Plaintiff alleges more than one additional heir, the issue of self-representation is at issue. If Plaintiff is unable to provide the court with a basis to grant leave to amend, the demurrer on this ground as to all actions shall be sustained.

The court will consider at the hearing whether it will grant leave to amend the SAC. Plaintiff must be prepared to advise the court whether he has any additional facts that might cure the defects identified.

The parties are instructed to appear at the hearing for oral argument. Appearance by Zoom Videoconference is optional and does not require the filing of Judicial Council form RA-010, Notice of Remote Appearance. (See Remote Appearance (Zoom) Information | Superior Court of California | County of Santa Barbara.)

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## MEMORANDUM

This case involves alleged elder abuse of Jose Ramiro Saranda Alvarez (decedent). He was born in Mexico on March 18, 1928, and died in California on November 29, 2023, at the age of 95. In 1988, decedent became the owner of real property at 615 W. Alvin Ave. in Santa Maria in joint tenancy with his grandson, Jose Dominquez. In 1999, decedent's son, Armando, his wife, Juana Velazquez Moreno, and their daughters, Iran and Michelle<sup>1</sup>, moved in with decedent at the property. In 2004, Jose Dominquez deeded his interest in the property to decedent, making decedent the owner in fee simple.

For several years preceding his death, decedent relied on caregivers to help with his daily needs and to manage his personal care. Decedent did not drive for approximately the last 20 years of his life and never had a valid California Driver's License. Defendants Juana, Iran, and Michelle assumed the role of care custodians of decedent by providing health and social services to him. Defendant Juana increasingly grew to be in control of decedent's finances as the primary caretaker. Defendant Juana gained access to decedent's bank account and used the funds to pay most of the household's expenses, including those incurred by or personal to defendants. She allegedly withdrew money from decedent's account(s), deposited it into her bank account, and then distributed it back to decedent as "payment" for bills, such as the mortgage.

On or about October 16, 2020, defendants caused decedent to unknowingly sign a Grant Deed conveying his fee simple interest in the Subject Property to Defendants and Armando as joint tenants. Defendants were aware that decedent could not read or write and was wholly reliant on their representations as to what the document contained.

In November 2021, decedent tested positive for COVID. He was ultimately admitted to the hospital on December 4, 2021. Both Armando and decedent's daughter, Maria, succumbed to COVID. Decedent was discharged on January 5, 2022, and was displaced by defendants to the cold, uninhabitable, unpermitted garage at the property. During this time Plaintiff spent as much time as possible with his father and observed decedent being left alone for long periods of time by defendants when decedent was unable to properly care for himself.

On February 17, 2022, Juana and Iran presented decedent with a gift deed conveying his 25% interest in the property to Iran, which decedent signed. On March 8, 2022, Iran executed and recorded an Affidavit Death of Joint Tenant to

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<sup>1</sup> For ease of reference, the court refers to the parties by their first names. No disrespect is intended.

remove Armando's name from the property's title and recorded the gift deed conveying decedent's interest to her.

In March of 2022, decedent moved in with his son, Antonio, the plaintiff in this action. Antonio's daughter investigated the ownership interests of the property and she and Antonio informed decedent that the property had been transferred. Decedent professed having no memory of signing the 2022 Gift Deed and no understanding that he signed a Grant Deed in 2020. He was actively looking for a way to address the fraud up until his death. Decedent died on November 28, 2023.

As is relevant for this demurrer, on February 7, 2025, plaintiff filed a second amended complaint on behalf of himself and as successor in interest to decedent against defendants Juana, Iran, and Michelle for the following causes of action: (1) intentional misrepresentation (2) fraudulent concealment; (3) constructive fraud; (4) negligent misrepresentation; (5) breach of fiduciary duties; (6) elder abuse [financial, physical, neglect, abandonment, & isolation]; (7) intentional infliction of emotional distress; (8) negligence; (9) quiet title; (10) cancellation of written instruments; (11) constructive trust.<sup>2</sup>

Defendants demur to the second amended complaint. No opposition has been filed and would now be untimely.

### Demurrer

A demurrer tests the legal sufficiency of a complaint. (*Donabedian v. Mercury Ins. Co.* (2004) 116 Cal.App.4th 968, 994.) A demurrer admits, provisionally for purposes of testing the pleading, all material facts properly pleaded. (*Tindell v. Murphy* (2018) 22 Cal.App.5th 1239, 1247.) A demurrer can be used only to challenge defects that appear on the face of the pleading under attack; or from matters outside the pleading that are judicially noticeable. (*Blank v. Kirwan* (1985) 39 Cal.3d 311, 318; *Donabedian v. Mercury Ins. Co.* (2004) 116 Cal.App.4th 968, 994.) No other extrinsic evidence can be considered. (*Ion Equip. Corp. v. Nelson* (1980) 110 Cal.App.3d 868, 881—error for court to consider facts asserted in memorandum supporting demurrer; *Afuso v. United States Fid. & Guar. Co., Inc.* (1985) 169 Cal.App.3d 859, 862 (disapproved on other grounds by *Moradi-Shalal v. Fireman's Fund Ins. Cos.* (1988) 46 Cal.3d 287)—error for court to consider contents of release which was not part of any court record; *640 Tenth, LP v. Newsom* (2022) 78 Cal.App.5th 840, 852, fn. 7—court ignores “a three page ‘Introduction’ resembling closing argument in a jury trial” and looks only to “well-pleaded factual allegations and matters properly subject to judicial notice.”)

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<sup>2</sup> On July 29, 2024, Juana and Iran filed a cross-complaint against Antonio and his wife, Teresa Hernandez Zaranda, alleging elder abuse for forcibly removing decedent from his home, isolating him, and manipulating him into believing they betrayed him.

Defendants demur on grounds that plaintiff lacks standing to bring some of the causes of action in the FAC, and alternatively, on grounds that the causes of action alleged are both uncertain and fail to state facts sufficient to constitute a cause of action. (Code Civ. Proc., § 430.10.)

## 1. Request for Judicial Notice

Defendants request the court take judicial notice that:

- “Plaintiff has filed no probate action on behalf of the estate of the decedent, Jose Ramiro Saranda Alvarez;”
- “Plaintiff’s original lawsuit in this suit was filed January 19, 2024;”
- “Decedent Jose Ramiro Saranda Alvarez, with his wife, Elodia Alvarez(dec), had four children together: Armando (dec), Plaintiff Antonio, Ramiro (dec), and Guadalupe (dec). Armando had five children/heirs with defendant Juana, including Defendants Iran and Michelle, and three other children not involved in this lawsuit. One of Armando’s children predeceased decedent, leaving a daughter. Ramiro has four children/heirs. These are Decedent’s estate’s beneficiaries.”

There is no opposition to this request and the court thus grants it as to the first two bulleted items. (Evid. Code, § 452, subd. (d).)

However, the court denies the request as to the third bullet point (i.e., to determine the issue of decedent for purposes of intestate succession). As defendant notes, a court may take judicial notice of “[f]acts and propositions that are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy.” (Evid. C. § 452, subd. (h).) Although defendants argue that decedent’s issue may be easily ascertained by resort to birth and death records, none were actually submitted. There is thus an evidentiary gap.

However, because the SAC filed by Plaintiff alleges more than one additional heir, the issue of self-representation is at issue. If Plaintiff is unable to provide the court with a basis to grant leave to amend, the demurrer on this ground as to all actions shall be sustained.

## 2. Leave to Amend

It is not up to the judge to figure out how the complaint can be amended to state a cause of action. Rather, the burden is on plaintiff to show in what manner plaintiff can amend the complaint, and how that amendment will change the legal effect of the pleading. (*Goodman v. Kennedy* (1976) 18 Cal.3d 335, 349; *Moore v. Centrelake Med. Group, Inc.* (2022) 83 Cal.App.5th 515, 537; *Medina v. Safe-Guard*

*Products* (2008) 164 Cal.App.4th 105, 112, fn. 8; *Shaeffer v. Califia Farms, LLC* (2020) 44 Cal.App.5th 1125, 1145—“onus” on plaintiff to show specific ways in which complaint can be amended, and denial of leave to amend affirmed where plaintiff “proffered no specific amendments to the trial court”; *Mohler v. County of Santa Clara* (2023) 92 CA5th 418, 428—leave to amend properly denied where plaintiff failed to describe what additional facts she would plead to cure defect.) Here, plaintiff should be prepared to advise the court whether he has any additional facts that might cure the defect.

### 3. Summary of Rulings

The court denies the request for judicial notice establishing decedent’s issue for purposes of intestate succession. The remainder of the request for judicial notice is granted.

The court sustains the demurrer to all causes of action due to the allegations contained in the SAC indicating at least two, possibly three, other heirs which casts issue on Plaintiff’s ability to represent himself and as successor in interest to the decedent.

The court will consider at the hearing whether it will grant leave to amend the SAC. Plaintiff must be prepared to advise the court whether he has any additional facts that might cure the defects identified.

The parties are instructed to appear at the hearing for oral argument. Appearance by Zoom Videoconference is optional and does not require the filing of Judicial Council form RA-010, Notice of Remote Appearance. (See Remote Appearance (Zoom) Information | Superior Court of California | County of Santa Barbara.)