

PROPOSED TENTATIVE

On May 21, 2024, plaintiff Pacific Claims Trucking filed a complaint against JG Garcia Trucking, LLC, and Jose Parra, for general negligence and negligent entrustment. Plaintiff was the workers compensation administrator for Esparza Enterprises, Inc. (Esparza), and was required to pay workers' compensation benefits to the employees of Esparza following the September 20, 2023 death of Esparza's employee Rosa Sanchez, an employee of Grimmway Farms through farm labor contractor Esparza, who was struck and killed by a vehicle owned/operated by defendants (defendant Parra was the driver). A number of other employees suffered stress and psychological injuries resulting from defendants' alleged negligence, and plaintiff wishes reimbursement for money paid as result of the accident. Defendants answered on July 12, 2024. Thereafter, on August 27, 2024, plaintiff substituted Doe 1 for Jesus Garcia Cisneros (dba Garcia Trucking), who answered on November 22, 2024, and Doe 2 with M & M Labor, Inc, who answered on January 22, 2025.

A notice of related case was filed on January 17, 2025, indicating that *Ramirez v. J. Garcia Trucking, Inc.*, Case No. 24CV03803, was related to this case. The complaint in this matter was filed on July 8, 2024, and alleges wrongful death and survivor causespropo of action on behalf of Rosa Sanchez, and names as plaintiffs Steven Ramirez, Mirian Ramirez, and Eric Ramirez, as well as defendants J. Garcia Trucking, Inc., Jose Parra, Grimmway Enterprises, Grimmway Farms, and Pastor Medrano. Grimmway Enterprises, Inc. (dba Grimmway Farms) answered on September 9, 2024; Pastor Medrano answered on September 20, 2024. Jesus Garcia Cisneros (dba Garcia Trucking), M&M Labor were substituted in for Does 1 and 2, respectively. On September 30, 2024, Grimmway and Medrano filed a cross-complaint against Jesus Garcia (dba Jesus Garcia Trucking), and M&M Labor, Inc. On November 25, 2025, Cisneros and Parra filed a cross-complaint against Grimmway and Medrano. All parties have answered. On April 8, 2025, Judge Kelly ordered both cases consolidated, with this case (Case No. 24CV02874) designated the lead case. All cases are now before this court. No trial date has been set. A Case Management Conference is scheduled for April 6, 2025, as well as a motion to quash production of business records.

On December 9, 2025, plaintiffs Steven Ramirez, Miriam Ramirez, and Erik Ramirez filed a motion for leave to file a first amended complaint. Plaintiffs propose to add a punitive damages claims to both the wrongful death and survivor causes of action against defendants Medrano and Grimmway, based on the claims that prior to September 20, 2023, defendants ignored "multiple farm workers" that Parra "was an unsafe driver who endangered workers, creating a serious and obvious workplace." These allegations are contained in new paragraphs 49A to 49F, and in the prayer for relief. Plaintiffs contends that they acted diligently, as the supporting facts for punitive damages "were clarified through ongoing investigation and initial discovery," all before a trial date has been set. Notably, in a declaration filed by attorney Darren

McBratney, Mr. McBratney declares as follows: “4. The facts supporting punitive damages were (and being) confirmed through investigation and initial discovery after the original Complaint filing.” Mr. McBratney goes on to state, not in his declaration but in the memorandum of points and authorities, as follows: “. . . [G]iven the current political climate, obtaining relevant farm worker compliance and moreover factual confirmation of those statements imputed the alleged punitive damage claim has been, and continues to be, challenging to say the least.” (P. 6 of Motion.)¹ Nothing else is offered. Plaintiff further contends defendants Medrano and Grimmway Enterprises (dba Grimmway Farms) will not suffer prejudice. Plaintiffs have attached the proposed FAC to the motion.

Defendants Grimmway and Medrano have filed opposition. They insist there was “inexcusable delay” in seeking the addition of punitive damages to the complaint, as the complaint was filed on July 8, 2024 (a year and five months ago). They observe that pursuant to California Rules of Court, rule 3.1324(b), plaintiff must attach a supporting declaration that describes, inter alia, “when the fact giving rise to the amended allegations were discovered,” and the reasons “why the facts request for amendment was not made earlier.” They insist that the half-page declaration from Mr. McBratney is woefully inadequate to meet this standard, and thus the court should the motion based solely on unreasonable delay pursuant to *Reason v. Reason* (1999) 73 Cal.App.4th 472, *Romer v. Retail Credit Co.* (1975) 44 Cal.3d 936, and *Green v. Rancho Santa Margarita Mortgage Co.* (1994) 28 Cal.app.4th 686, 691.

Defendant also argues in the alternative that it will be prejudiced by the addition of punitive damages, claiming that since being served, defendants “have prepared their defense and conducted discovery based on Plaintiff’s existing Complaint. Defendants prepared a summary judgment based on allegations in the Complaint,” although defendant concedes it was not filed in light of the December 9, 2025, motion for stay (ultimately denied by the court). According to defendants, should “plaintiffs be permitted to file their proposed FAC, Defendants will be required to review the motion to reflect the new Complaint iteration and, if not successful with a Motion to Strike, add a new section to address the new claims. Before doing so, additional discovery will need to be completed. Accounting for the time to file a have a Motion to Strike be heard and then file a Motion for Summary Judgment on the final iteration of the Complaint, there will be a substantial delay in being ready for trial, as well as add costs of preparation and increased burden of discovery.” (Opp. at . 4.) Defendants have not provided a declaration to support any of these claim.

Finally, defendant contends the court should deny the motion because the amendment “would be futile.” Defendants insist that the proposed punitive damages claims fail to state a

¹ Matters set forth in points and authorities are not evidence. (*Alki Partners,, LP v. DB Fund Services, LLC* (2016) 4 Cal App.5th 572, 590.) Counsel’s failure to include this information in his declaration makes the curt’s determinations unnecessarily protracted and far more difficult.

basis for punitive damages against corporate employer Grimmway Farms, as plaintiff has failed to name an officer, director, or managing agent responsible for the corporate decisions at issue.

Plaintiff has filed opposition, and defendant has filed a reply. All briefing has been examined.

The court will discuss the relevant legal standards that frame the issues presented. The court will then address the merits of motion. The court will conclude with a summary of its conclusions.

A) *Legal Background*

Generally, a plaintiff may amend his complaint “once without leave of the court at any time before the answer, demurrer, or motion to strike is filed, or after a demurrer or motion to strike is filed but before the demurrer or motion to strike is heard” (Code Civ. Proc., § 472, subd. (a) (all future statutory references are to this Code.) Thereafter, the trial court may allow further amendment “in its discretion, . . . upon any terms as may be just.” (*Id.*, § 473, subd. (a)(1).) Such amendments generally may occur “ ‘at any time before or after commencement of trial, in the furtherance of justice’ ([*id.*] § 576) so long as the amendments do not raise new issues against which the opposing party has had no opportunity to defend. (*North Coast Village Condominium Assn. v. Phillips* (2023) 94 Cal.App.5th 866, 881; see also *Doe v. Second Street Corp.* (2024) 105 Cal.App.5th 552, 577–578 [same].) Amendments, however, are to be liberally allowed, for case law reflects a preference for the resolution of litigation and the underlying conflicts on the merits. (*Kabran v. Sharp Memorial Hospital* (2017) 2 Cal.5th 330, 342-343]; see also *Magpali v. Farmers Group, Inc.* (1996) 48 Cal.App.4th 471, 487 [courts should apply a policy of great liberality in permitting amendments to the complaint at any stage of the proceedings, up to and including trial].)

That being said, leave to amend should not be granted where, in all probability, the amendments made are futile (*Forudi v. The Aerospace Corp.* (2020) 57 Cal.App.5th 992, 1000), meaning amendments are not viable as a matter of law based on the facial allegations of the proposed pleading (*Royalty Carpet Mills, Inc. v. City of Irvine* (2005) 125 Cal.App.4th 1110, 1125) or the proposed pleading omits harmful allegations present in the initial pleading. (*Falcon v. Long Beach Genetics, Inc.* (2014) 224 Cal.App.4th 1263, 1289; *Oakland Raiders v. National Football League* (2005) 131 Cal.App.4th 621, 652 [court not required to grant leave to amend where additional claims were without merit as a matter of law].) Additionally, the liberal policy does not prevail when there is inexcusable delay and probable prejudice to the adverse party. (*Magpoli, supra*, 48 Cal.App.4th at p. 487.) Case authority indicates that the court has discretion to deny leave to amend based on unreasonable delay alone under the appropriate circumstances. (See, e.g., *Doe v. Los Angeles County Dept. of Children & Family Services* (2019) 37 Cal.App.5th 675, 689; *Huff v. Wilkins* (2006) 138 Cal.App.4th 732, 765 [“ ‘even if a good

amendment is proposed in proper form, unwarranted delay in presenting it may—of itself—be a valid reason for denial”].) Prejudice is shown when the amendment opens up an entirely new field of inquiry without an adequate explanation as to why such a major change in point of attack had not been made long before trial. Other factors in the prejudice inquiry include the timing of the request (e.g., was it on the eve of trial?), the need for delay of trial (resulting in loss of critical evidence of the added costs of preparation), the impact on the adverse party in preparing for trial through adequate discovery, and whether there is a substantial change in the tenor and complexity of the lawsuit. (*Solit v. Tokai Bank* (1999) 68 Cal.App.4th 1435, 1448; *Magpoli, supra*, at pp. 487-488; see also *Thompson Pacific Construction, Inc. v. City of Sunnyvale* (2007) 155 Cal.App.4th 525, 544-545 [when there is no prejudice to the adverse party, it may be an abuse of discretion to deny leave to amend]; *Morgan v. Superior Court* (1959) 172 Cal.App.2d 527, 530 [if the motion to amend is not made with unwarranted delay, and there is no prejudice, it is error to refuse permission to amend where the refusal also results in party being deprived of the right to assert a meritorious cause of action]; see *Higgins v. Del Faro* (1981) 123 Cal.App.3d 558, 564-565 [even if there has been a delay in seeking leave to amend, it is an abuse of discretion to deny leave if the opposing party has not been prejudiced].)

B) Merits

The court agrees with defendant that the declaration from attorney Darren McBratney is inadequate. At the hearing Mr. McBratney should be prepared to address 1) when he actually learned about the basis for punitive damages against defendants during the prosecution; and 2) how difficult has it been to interview witnesses about defendant’s alleged misconduct in order to confirm the basis for punitive damages. In the court’s view, the latter explanation reflects the real-world problem in light of the current state of affairs, but plaintiff must present evidence to support the claim. Oddly, plaintiff does not address the issue in reply. Plaintiff should be prepared to remedy these evidentiary deficiencies.

Even with this, the court is not willing to deny the motion based exclusively on the 15-month delay between the filing of the complaint and the filing of the present motion, despite case law that suggests that delay alone may support the action. The matter does not come the court in a vacuum. The court noted in its December 9, 2025, order, denying the stay, that Cal-OSH Bureau of Investigations (BOI) is criminally investigating defendants, and according to the declaration of defendant’s attorney David Donnell, as of November 11, 2025, the BOI’s investigation is ongoing and has not concluded. There appear to be many moving parts to the present litigation, and it is not surprising, with this background, that new facts will be revealed that may support punitive damages (including the more heightened requirements of malice, oppression, and fraud as the predicate for punitive damages).

Notably, the three cases cited by defendant to support its claim that unreasonable delay may act as the exclusive basis to deny leave to amend are inapposite. In *Record v. Reason, supra*, plaintiff filed a complaint in April 1995; defendant moved for summary judgment in

January 1997. Plaintiff filed a motion for leave to file a first amended complaint to be heard “at the same time as the summary judgment motion.” (*Id.* at p. 478.) The trial court granted the summary judgment motion and denied the motion to amend the complaint as being untimely and “having no good cause.” (*Ibid.*) The *Record* court affirmed both determinations. The court concluded that summary judgment was appropriate because plaintiff’s claims were barred by the primary assumption of the risk doctrine. (*Id.* at pp 486.) In the motion for leave to amend, plaintiff attempted for the first time to plead around the primary assumption of the risk bar by alleging defendant’s intentional or reckless conduct. The court was not having it. As relevant for our purposes, it noted that even if a good amendment is in proper form, unwarranted delay in presenting it may, of itself, be a valid reasons for denial. “[Plaintiff] had knowledge of the circumstances on which he based the amended complain on the day he was injured, almost three years before he sought leave to amend . . .” Indeed, according to *Record*, plaintiff’s amendment “arises from the same conduct as that in the original complaint.” Not insignificantly, the *Record* court found that plaintiff set “forth nearly the identical evidence in opposition to the summary judgment as he did in support of the motion to amend,” meaning there was little prejudice to plaintiff by rejection of the proposed amendment. (*Id.* at p. 487.)

In *Roemer v. Retail Credit Co*, *supra*, 44 Cal.App.3d 926, at the close of defendant’s case and prior to the giving of instructions to the jury, defendant requested leave to amend its answer to plead the partial truth of the defamatory statements in mitigation of damages. The request was denied. The appellate court affirmed. The *Roemer* court observed that although failure to “permit such amendment where justice requires it is an abuse of discretion [citation], the objectionable subject matter of the amendment, the conduct of the moving party, or the belated presentation of the amendment are appropriate matters for the reviewing court to consider in evaluating the trial court’s exercise of discretion . . .” The *Roemer* court found multiple bases to uphold the trial court’s decision, for 1) the amendment contradicted an admission via stipulation upon which the case was tried (*id.* at p. 939); 2) “unwarranted delay in presenting it may – of itself – be a valid reasons for denial.” Here, there were two trials. “. . . [T]he evidence at the first trial also indicated the truth of some of the statements in the reports . . . Such a long delay in offering the amendment after knowledge of the fact [i.e., waiting until the conclusion of the second trial to ask for amendment answer]” shows a lack of diligence, “a finding which is implicit in the trial judge’s observation that it would be improper to permit the proposed amendment after the entire case had been tried on the basis of the stipulation of falsity.” (*Id.* at p. 940.)

And in *Green v. Rancho Santa Margarita Mortgage Co.*, *supra*, 28 Cal.App.4th 686, there were two appeals. After the first appeal, which arose out of what the court termed a “procedural mess,” the appellate court reversed a jury verdict and remanded for a new trial on the plaintiff’s cause of action for race discrimination. (*Id.* at p. 691.) After the case had been remanded, defendant mortgage broker asked the court to amend the answer to include an affirmative defense of its own negligence (a defense to race discrimination). The original answer left no room for defendant’s negligence. The trial court denied the request. On appeal, the

mortgage broker concluded the trial court erred. The *Green* court disagreed and affirmed. “We cannot hold that there was an abuse of discretion. There is a platoon of authority to the effect that a long unexcused delay is sufficient to uphold a trial judge’s decision to deny the opportunity to amend pleadings, particularly where the new amendment would interject a new issue which requires further discovery. [Citation] Denial will also be upheld where the amendment ‘contradicts an admission in the original pleading.’ [Citation].” “The mortgage broker here offered no excuse for its delay in seeking to amend. . . . Of course, it is fairly obvious why the mortgage broker waited so long and why it articulated no excuse for its delay in seeking to amend. If the broker had asserted its own negligence prior to the first trial, it almost certainly would have lost the case on *some* theory. By waiting until after the first appeal and the subsequent stricture against allowing the Greens to amend, the case was perfectly postured for the assertion – now without cost – of professional negligence as an affirmative defense. Thus it is clear that the original ‘failure’ to include negligence as a defense was no failure at all, but a conscious strategic decision to win the entire case by prevailing on the race discrimination claim rather than risk defeat on a negligence claim. As such, the mortgage broker had no ‘excuse’ for not pleading the negligence defense prior to the first appeal.” (*Id.* at p. 692-693.) That is, the failure to plead negligence earlier was entirely of defendant’s own doing, and it attempted to amend only when there was prejudice to the plaintiffs. Finally, and not insignificantly, “there is no doubt that the amendment would have both contracted the mortgage broker’s previous verified pleading . . . and required further discovery, requiring the Greens to substantially redo their trial strategy. “Given lack of any excuse for not pleading the defense earlier – the decision not to plead negligence was a legal gamesmanship in its purest sense [fn. omitted] – we cannot say the trial court abused its discretion in denying the request to amend. [Fn. omitted].” (*Id.* at pp. 693-694.)

Record, *Roemer*, and *Green* are factually distinguishable. In all three, the amending party asked to amend the pleading only after an attempt to overcome (or in the case of *Green* to take advantage of) prior rulings by the courts, when such amendments could very well have been made at the outset of the litigation. In *Record*, plaintiff requested an amendment in order to overcome the trial court’s decision that the lawsuit was barred by the primary assumption of the risk doctrine, based on the very same evidence that plaintiff has earlier recounted or presented in opposition to the summary judgment motion (and not on new facts.) In *Roemer*, the moving party asked to amend after trial had finished, but before jury deliberations, which would have fundamentally altered the course of the trial, requiring more discovery, as the request amounted to a contradiction of previous admissions upon which the course of trial had rested. And in *Green*, there was no reason for the amendment except for pure “gamesmanship.” None of these factors are present here. Here, no trial date has been set, no summary judgment motion has been filed, and discovery clearly has not concluded. Given the interwoven backgrounds of the various prosecutions at issue, the court cannot say as a matter of law that the delay of 15 months, under these circumstances, is an adequate basis to deny the motion alone, particularly given the liberal policy for amendment. Defendant will have to show prejudice.

As noted, prejudice to the opposing party exists where the amendment would require the trial court to delay trial, resulting in the loss of critical evidence or the added costs of preparation. (*Magpali, supra*, 48 Cal.App.4th at pp. 486-488.) None of these circumstances seem evident from the record. No trial date has been set or scheduled, and we are far removed from the given (5) years plaintiffs have to prosecute this matter. Further, there is no indication that the addition of the punitive damages would fundamentally change the tenor and complexity of the complaint – the focus remains the same, on defendants’ conduct. The amendment does not involve an entirely new theory of liability, but simply a refinement of existing liability. No doubt additional discovery will be required, but that alone does not seem remarkable under the circumstances, as discovery has not finished and remains ongoing (indeed, there is pending discovery motion before the court on April 6, 2026). This state of affairs has been adequately reflected in the Case Management Statements filed in October 2025 (approximately two months before the present motion), in which the parties expressly indicated that substantial discovery was ongoing and not yet completed (i.e., interrogatories, deposition, expert witnesses.)

Defendant makes much of the fact that it will have to potentially rework its summary judgment motion – but that is not the same as requiring additional motion work. Indeed, given the ongoing nature of discovery, and the fundamental nature of summary judgment/adjudication motions, a motion written months ago will likely have to be reconfigured based on new evidence. While inconvenient, given the status of the case, and the fundamental fairness of the parties as whole, the court does not see the addition of punitive damages as unduly prejudicial. All of this is underscored by the fact that defendants cannot realistically claim surprise by the addition of punitive damages in light of the ongoing criminal investigations at issue. It is not a last-minute amendment that was unanticipated under the circumstances.² The court therefore does not see any meaningful prejudice on this record.

Defendant’s last contention – that the addition of punitive damages is “futile” – requires additional analysis. Undoubtedly the court has discretion to deny leave to amend when the amendment would be futile, i.e., where the amendment cannot state a cause of action (or in this case, a claim for punitive damages) as a matter of law. (See, e.g., *Singh v. Lipworth* (2014) 227 Cal.App.4th 813, 828 [defendant amendment was predicated on relitigating the final judgment and post-judgment orders based on intrinsic, rather than extrinsic fraud, making the claim legally untenable]; *Foxborough v. Van Atta* (1994) 26 Cal.App.4th 217, 230 [because the cause of action

² To underscore the point, the court observes that defendants Grimmway and Medrano were the parties who asked the court to stay the present civil matter pending the investigation by the BOI into their conduct until the investigation had either “formerly closed” or until the criminal aspect of the matter has been concluded. They acknowledged at the time the stay request was made that they faced possible criminal liability. Given the heightened mens rea required for criminal culpability, the fact the court denied a stay, the defendants’ acknowledgement of their potential criminal culpability, and the fact the ongoing investigation by BOI has not yet concluded, defendants cannot realistically contend that they are surprised or otherwise prejudiced by plaintiff’s claim based on “malice, oppression or fraud.”

in the amended pleading did not relate back to the filing of the original complaint, as it was based on a different incident, it was barred by one-year statute of limitations per Code Civ. Proc. § 340.6 as a matter of law]; see also *Heckendorn v. City of San Marino* (1986) 42 Cal.3d 481, 489 [leave to amend denied where there is no reasonable possibility that an amendment could cure the complaint's defect].) Short of these types of errors, however, a trial court should not consider the validity of the proposed amended pleading in deciding whether to grant leave to amend. Grounds for demurrer (or in this case, a motion to strike) would be premature; after leave to amend is granted, the opposing party will have the opportunity to attack the validity of the amended pleading. (*Atkinson v. Elk Corp.* (2003) 109 Cal.App.4th 739, 790 [“we believe that the better course of action would have been to allow plaintiff to amend the complaint and then let the parties test its legal sufficiency in other appropriate proceeding”].) That is, where the defect in any proposed amendment can potentially be cured by a future amendment, the preferable practice is to permit the amendment and allow the parties to test its legal sufficiency by demurrer or other appropriate motion. (*California Casualty Gen. Ins. Co. v. Superior Court* (1985) 173 Cal.App.3d 274, 281, disapproved on other grounds in *Kransco v. American Empire Surplus Lines Ins. Co.* (2000) 23 Cal.4th 390, 407, fn. 11.)

Defendant claims that plaintiff has not stated a viable claim for punitive damages because it has failed to meet the requirements of Civil Code section 3294, subdivision (b) as against corporate employment Grimmway, and more specifically the standards enunciated in *White v. Ultramar, Inc.* (1999) 21 Cal.4th 563, 566-567 [discussing the nature of a “managing agent” for purposes of punitive damages for corporate employers].) There is no indication that plaintiff cannot state a basis for punitive damages for a corporate employer defendant as a matter of law, however. As noted in *Atkinson*, the better course of action would be to allow plaintiff to file the amended pleading, and then let defendant challenge the allegations through pretrial challenges, which would then afford plaintiff an opportunity to amend if possible. The court finds this analysis persuasive and this course appropriate. Any claimed defects in the punitive allegations as alleged are not a basis to deny the motion for leave to file the amended complaint.

Summary:

The court agrees with defendant that Mr. McBratney's half-page declaration is inadequate. Plaintiff's counsel is directed to explain at the hearing (or through a written supplemental declaration), when the factual predicate for the punitive damage claims was learned, what efforts were made to try to confirm the factual basis for the punitive damages claim, and why these efforts of confirmation have proven difficult. If the court is satisfied with these explanations, the court will grant plaintiff's motion for leave to file a first amended complaint. The court directs that plaintiff file the proposed first amended pleading within 10 days of this hearing, with notice to defendant. Defendant has 30 days from notice date to submit a responsive pleading. The parties are directed to appear at the hearing either in-person or via Zoom.