

SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE

Historic Court House

Hearing re: Demurrer on 2nd Amended Complaint for Other Personal Injury/Property
Damage/Wrongful Death Tort (Over \$25,000) of JACQUELINE BALTAZAR by COUNTY OF
RIVERSIDE

12/06/2023
8:30 AM
Department 4

CVRI2303050
BALTAZAR vs COUNTY OF RIVERSIDE

Honorable Daniel Ottolia, Judge
E. Usher, Courtroom Assistant
Court Reporter: None

APPEARANCES:

COUNTY OF RIVERSIDE [DEF] represented by Gary Poteet via Zoom.
BALTAZAR, JACQUELINE [PLA] represented by Paul Maineri via Zoom.

At 08:30 AM, the following proceedings were held:

Tentative Ruling:

SUSTAIN the Demurrer to the third cause of action for Negligent Infliction of Emotional Distress without leave to amend. This cause of action is duplicative of the second cause of action for negligence.

OVERRULE the Demurrer to the first cause of action for Premises Liability and the second cause of action for Negligence. Defendant is ordered to Answer within 20 days.

Plaintiff has sufficiently alleged a dangerous condition of property. The Second Amended Complaint (SAC) alleges that on 7/14/22, Miron entered RUMC's maternity ward "through a defective security door which, due to its defect, was left propped open." (SAC Para.34.) Plaintiff further alleges that "the security door constituted a dangerous condition because...the door was meant to keep patients recovering from giving birth safe from unauthorized intrusion by third parties and to ensure the safety and protection of newborn babies... (SAC at Para. 45.) While Plaintiff does not specify the exact nature of the defect that kept the door propped open, the Code does not require this level of specificity. Certainly, the County is on notice of the nature of the Plaintiff's complaint, and County can readily ascertain the specific mechanical defect with the door through discovery. For the second cause of action for negligence, the Court finds that the immunity asserted by County under Govt. Code § 845 does not apply here. That Govt. Code section specifically addresses "police" protection and was meant to immunize the budgetary and political decisions involved in the hiring and deploying

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of a police force. (See *Carpenter v. City of Los Angeles* (1991) 230 Cal.App.3d 923, 934-935.) The second cause of action has been sufficiently pled by Plaintiff.

In accordance with California Rule of Court 3.1308 and Local Rule 3316, a tentative ruling was issued, and oral argument was requested.

Counsel presents argument.

Court makes the following order(s):

Demurrer by COUNTY OF RIVERSIDE on 2nd Amended Complaint for Other Personal Injury/Property Damage/Wrongful Death Tort (Over \$25,000) of JACQUELINE BALTAZAR sustained without leave to amend as to Third cause(s) of action.

Demurrer by COUNTY OF RIVERSIDE on 2nd Amended Complaint for Other Personal Injury/Property Damage/Wrongful Death Tort (Over \$25,000) of JACQUELINE BALTAZAR overruled as to First and Second cause(s) of action.

COUNTY OF RIVERSIDE have/has 20 days leave to file an answer on 2nd Amended Complaint for Other Personal Injury/Property Damage/Wrongful Death Tort (Over \$25,000) of JACQUELINE BALTAZAR.

Notice to be given by prevailing party.