

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

Balcal Construction, Inc. v. Berkley Assurance Company

Balcal Construction · No. 25-cv-02997-RFL · Decided May 16, 2025

SUMMARY

The United States District Court for the Northern District of California partially granted and partially denied Berkley Assurance Company’s motion to dismiss. The court dismissed claims against Verus Specialty Insurance based on the plaintiff’s non-opposition but denied dismissal of the punitive-damages request against Berkley Assurance Company, discharged the order to show cause, and vacated the hearing.

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	Rita F. Lin
JURISDICTION	United States District Court for the Northern District of California
DECIDED	May 16, 2025
DOCKET	25-cv-02997-RFL
DISPOSITION	other
PROCEDURAL POSTURE	Defendants moved to dismiss under Federal Rule of Civil Procedure 12(b)(6). The court decided the motion without oral argument and addressed claims against Verus Specialty Insurance and a request for punitive damages against Berkley Assurance Company.
STANDARD OF REVIEW	On a Rule 12(b)(6) motion, the court considered whether the challenged pleading stated a claim; the court held that a request for punitive damages, standing alone, does not provide a basis for dismissal under Rule 12(b)(6).
PRECEDENTIAL VALUE	Unpublished district court order; generally nonprecedential.

TOPICS

- motions to dismiss
- insurance
- construction law
- civil procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the claims against Verus Specialty Insurance should be dismissed in light of Plaintiff's non-opposition.
2. Whether the request for punitive damages against Berkley Assurance Company provided a basis for dismissal under Rule 12(b)(6).

HOLDINGS

1. The claims against Verus Specialty Insurance were dismissed because Plaintiff did not oppose the requested dismissal.
2. A request for punitive damages provides no basis for dismissal under Rule 12(b)(6); the motion was therefore denied insofar as it sought dismissal of the punitive-damages request against Berkley Assurance Company.

KEY QUOTATIONS

"requests for punitive damages provide no basis for dismissal under Rule 12(b)(6)."

FACTUAL BACKGROUND

Balcal Construction brought claims involving Berkley Assurance Company and Verus Specialty Insurance. The motion to dismiss sought dismissal of claims against Verus and dismissal of the request for punitive damages against Berkley. Plaintiff did not oppose dismissal of the claims against Verus.

PROCEDURAL HISTORY

Balcal Construction filed an action against Berkley Assurance Company and Verus Specialty Insurance. Berkley moved to dismiss, and Plaintiff did not oppose dismissal of the claims against Verus. The court dismissed Verus from the action, denied the motion insofar as it sought dismissal of the punitive-damages request against Berkley, and discharged the order to show cause.

DISPOSITION

other

CASES CITED

- Apple, Inc. v. Starr Surplus Lines Ins. Co., No. 24-cv-03738-RFL, 2024 WL 4834424, at *1 (N.D. Cal. Nov. 18, 2024)
- Muldoon v. DePuy Orthopaedics, Inc., No. 15-cv-02723-PJH, 2024 WL 3522204, at *15 (N.D. Cal. July 23, 2024)

OPINION

UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA BALCAL CONSTRUCTION, INC., Case No. 25-cv-02997-RFL Plaintiff, ORDER GRANTING IN PART AND Vv. DENYING IN PART MOTION TO DISMISS BERKLEY ASSURANCE COMPANY, et al., Re: Dkt. No. 7 Defendants.

The Court finds the matter suitable for determination without oral argument under Civil Local Rule 7-1(b), and the hearing set for June 3, 2025 is VACATED. In light of Plaintiff's non-opposition (Dkt. No. 19), Berkley Assurance Company's Motion to Dismiss (Dkt. No. 7) is GRANTED as to the claims against Verus Specialty Insurance, and Verus is dismissed from the action.

The motion is DENIED to the extent it seeks dismissal of the request for punitive damages against Berkeley Assurance, because "requests for punitive damages provide no basis for dismissal under Rule 12(b)(6)." *Apple, Inc. v. Starr Surplus Lines Ins. Co.*, No. 24-cv-03738- RFL, 2024 WL 4834424, at *1 (N.D. Cal. Nov. 18, 2024) (quoting *Muldoon v. DePuy Orthopaedics, Inc.*, No. 15-cv-02723-PJH, 2024 WL 3522204, at *15 (N.D.

Cal. July 23, 2024)). The order to show cause (Dkt. No. 18) is DISCHARGED. IT IS SO ORDERED. Dated: May 16, 2025 EE RITA F. LIN United States District Judge