

**UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA**

Duron v. Nationwide Mutual Insurance Co.

No. 2:22-cv-01195-JAM-CSK (E.D. Cal. May 14, 2025) · No. 2:22-cv-01195-JAM-CSK · Decided May 15,
2025

OPINION

Duron v. Nationwide Mutual Ins. Co.

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 EASTERN DISTRICT OF CALIFORNIA

10 11 MIGUEL ANGEL DURON, JR., an No. 2:22-cv-01195-JAM-CSK individual; and
MIGGY’S TRUCKING 12 DELIVERY SERVICE LLC, a dissolved limited liability company,

13 ORDER GRANTING DEFENDANT’S

Plaintiffs, MOTION FOR SUMMARY JUDGMENT 14 v. 15

NATIONWIDE MUTUAL INSURANCE

16 COMPANY, an active California corporation and DOES 1 through 17 20, inclusive, 18
Defendants. 19 20 Before the Court is Nationwide Mutual Insurance Company’s 21 (“Defendant”
or “Nationwide”) motion for summary judgment. See 22 Mot., ECF No. 43. Miguel Angel Duron,
Jr. and Miggy’s Trucking 23 Delivery Service LLC (“Miggy’s Trucking”) (collectively, 24
“Plaintiffs”) opposed. See Opp’n, ECF No. 44. Defendant 25 replied. See Reply, ECF No. 46.
Plaintiffs bring five causes of 26 action against Defendant: (1) professional negligence, (2) breach
27 of fiduciary duty, (3) constructive fraud, (4) breach of implied 28 covenant of good faith & fair
dealing, and (5) intentional 1 infliction of emotional distress. Defendant moves for summary 2
judgement on each of these claims on the basis that no causation 3 exists. For the following
reasons, Defendant’s motion is 4 granted.¹

5 I. FACTUAL BACKGROUND

6 The following facts are not in dispute. Plaintiff Angel 7 Duron Jr. owned and operated Miggy’s
Trucking Delivery Service 8 LLC, a delivery company based in Stockton, California. See 9
Complaint at ¶ 2, Notice of Removal Ex. A, ECF No. 1. Under 10 California law, trucking
companies are required to maintain a 11 Motor Carrier Permit (“MCP”) from the California
Department of 12 Motor Vehicles (“DMV”) to operate validly. To obtain an MCP, the 13 DMV
requires commercial trucking companies to have proof of valid 14 and active insurance or a surety
bond. See Cal. Veh. Code 15 § 34630(a). If the underlying insurance lapses or is terminated, 16
the associated MCP is “suspend[ed] . . . effective on the date of 17 lapse or termination unless the
carrier provides evidence of 18 valid insurance.” See Cal. Veh. Code § 34630(c). If the MCP is 19

suspended due to a lapse in coverage, the trucking company must pay a reinstatement fee of \$150 to have their permit reinstated. 21 *Id.*; Cal. Veh. Code § 34623.5. 22 Miggy's Trucking maintained a liability insurance policy 23 with Nationwide between April 3, 2018 and May 10, 2018. See 24 Jaffe Decl., Ex. A ("Duron Depo. Trans."), Ex. 15 (2018 25 Nationwide Insurance Application). Upon termination of that 26 27 1This motion was determined to be suitable for decision without oral argument. E.D. Cal. L.R. 230(g). The hearing was scheduled 28 for April 8, 2025. 1 policy, Miggy's Trucking obtained new and separate insurance 2 through Infinity Select Insurance Company from May 4, 2018 to May 3 4, 2020. See Jaffe Decl., Ex. D, Anderson Decl. at ¶¶ 11-12. On

4 May 4, 2020, Miggy's Trucking ceased its coverage with Infinity

5 Select Insurance and obtained a new policy through Nationwide 6 with an effective date of May 15, 2020. See Duron Depo. Trans.,

7 Exs. 25, 26. The May 15, 2020 Nationwide policy is the primary

8 subject of this litigation. 9 Due to the lapse in coverage between May 4, 2020 and May 15, 10 2020, the DMV gave written notice that Miggy's Trucking's MCP was 11 suspended as of May 4, 2020. See Jaffe Decl., Ex. D, Anderson 12 Decl., Ex. 1 at DMV_PROD_0056 and DMV_PROD_0057. Plaintiffs do 13 not allege and no party presents any evidence that Plaintiffs 14 paid the \$150 reinstatement fee. On multiple occasions, 15 including September 17, 2020 and April 7, 2021, Miggy's 16 Trucking's drivers were cited by the California Highway Patrol 17 for operating without a valid MCP. See Complaint at ¶¶ 14-18, 18 Notice of Removal Exs. A-B, ECF No. 1; Plaintiff's Separate 19 Statement of Disputed Facts No. 17; Mot. at 4; Opp'n at 3. 20 The DMV did not reissue a new MCP to Miggy's Trucking until

21 August 13, 2021, and this August 13, 2021 MCP remained valid

22 until February 28, 2022. See Opp'n at 4; Complaint at ¶ 22, 23 Notice of Removal Ex. E, ECF No. 1. Plaintiffs allege that their 24 lack of a valid MCP resulted in a string of events that caused 25 them to lose a trucking contract with Premier/T-Force, accumulate 26 citations, and eventually dissolve their business. See Complaint 27 at ¶¶ 22-24, Notice of Removal Ex. F, ECF No. 1. 28 ///

1 II. OPINION

2 A. Legal Standard 3 Summary judgment is appropriate when the record, read in the 4 light most favorable to the non-moving party, indicates "that 5 there is no genuine dispute as to any material fact and the 6 movant is entitled to judgment as a matter of law." Fed. R. Civ. 7 P. 56(a). A genuine dispute of fact exists only if "there is 8 sufficient evidence favoring the nonmoving party for a jury to 9 return a verdict for that party." *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 249 (1986). If the nonmoving party fails to 11 make this showing, "the moving party is entitled to judgment as a 12 matter of law." *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 13 (1986). 14 It is not a court's task "to scour the record in search of a 15 genuine issue of triable fact." *Keenan v. Allan*, 91 F.3d 1275, 16 1279 (9th Cir. 1996) (internal citation omitted). Rather, a 17 court is entitled to rely on the nonmoving party to "identify 18 with reasonable particularity the evidence that precludes

summary judgment.” See *id.* (internal citation omitted). An opponent to summary judgment “must do more than simply show that there is some metaphysical doubt as to the material facts.” *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586 (1986).

B. Analysis

1. Evidentiary Objections

Defendant objects to Plaintiffs’ Evidence filed in Support of Plaintiffs’ Opposition to Nationwide’s Motion for Summary Judgment, ECF No. 44-2, on the grounds that these declarations contradict deposition testimony and do not meet the Federal Rules of Evidence. The Court has reviewed these evidentiary objections but declines to rule on each one individually as courts self-police evidentiary issues on motions for summary judgment and a formal ruling is unnecessary to the determination of this motion. See *Grindstone Indian Rancheria v. Olliff*, 2021 WL 3077464, at *16 (E.D. Cal. July 21, 2021) (citing *Sandoval v. Cty. Of San Diego*, 798 F.3d 657, 665 (9th Cir. Jan. 13, 2021)). Objections are generally unnecessary on summary judgment because they are “duplicative of the summary judgment standard itself” and the “parties briefing summary judgment motions would be better served to ‘simply argue’ the import of the facts reflected in the evidence rather than expending time and resources compiling laundry lists of objections.” *Burch v. Regents of the University of California*, 433 F. Supp. 2d 1110, 1119 (E.D. Cal. 2006). As the Ninth Circuit has held, “to survive summary judgment, a party does not necessarily have to produce evidence in a form that would be admissible at trial, as long as the party satisfies the requirements of Federal Rules of Civil Procedure 56.” *Fraser v. Goodale*, 342 F.3d 1032, 1036–37 (9th Cir. 2003) (citing *Block v. City of L.A.*, 253 F.3d 410, 418–19 (9th Cir. 2001)). That being said, “[t]he general rule in the Ninth Circuit is that a party cannot create an issue of fact by an affidavit contradicting his prior deposition testimony.” *Van Asdale v. Int’l Game Tech.*, 577 F.3d 989, 998 (9th Cir. 2009). The statements contained in Exhibit 1, Declaration of Plaintiff Miguel Angel Duron, Jr., are stricken to the extent that they contradict the deposition evidence. See *Williams v. Adams*, 2012 WL 12842781, at *23 (E.D. Cal. Nov. 29, 2012), *aff’d* sub nom. *Williams v. Williams*, 599 F. App’x 758 (9th Cir. 2015) (“Plaintiff’s declaration does not take precedence over his responses in deposition as ‘[a] party cannot create a genuine issue of material fact to survive summary judgment by contradicting his earlier version of the facts.’”); see also *Sanders v. City of Bakersfield*, 2005 WL 6267361, at *6 (E.D. Cal. 7 Sept. 30, 2005), on reconsideration in part, 2009 WL 734059 (E.D. Cal. Mar. 17, 2009) (“In dealing with inconsistent testimony, the court must make its judgment by ‘[t]aking the facts to be as [the non-moving party] first admitted them in his deposition testimony and all the inferences which may be drawn therefrom in the light most favorable to [the non-moving party].’”).

2. Causation

Defendant’s argument forming the basis of its summary judgment motion is that Nationwide did not cause Plaintiffs’ injuries because external actions preceding Nationwide’s involvement resulted in Plaintiffs’ inability to acquire a new MCP. See Mot. at 6-10. Defendant argues that Plaintiffs’ five causes of action fail because there is no causal relationship between Nationwide and Plaintiffs’ injuries. As

Defendant correctly argues, causation is an essential element of each of Plaintiff's five claims. See *Land O'Lakes, Inc. v. DairyAmerica, Inc.*, 2017 WL 495644, at *5 (E.D. Cal. Feb. 24, 2017) ("To state a cognizable claim for professional negligence, a plaintiff must allege the following four elements: . . . (iii) a causal connection between the negligent conduct and the resulting injury."); see also *Gutierrez v. Girardi*, 194 Cal.

28 App. 4th 925, 932 (2011) (A cause of action for breach of fiduciary duty requires damage proximately caused by the breach); *2 Magic Leap, Inc. v. Chi Xu*, 2020 WL 3268659, at *7 (N.D. Cal.

3 June 17, 2020) ("Thus, the elements of a constructive fraud claim are . . . reliance and resulting injury (causation)."); *Britz 5 Fertilizers, Inc. v. Bayer Corp.*, 665 F. Supp. 2d 1142, 1167 (E.D. Cal. 2009) ("[c]ausation resulting in damage is an essential element of a claim for breach of contract as well as a claim for breach of the implied covenant of good faith and fair dealing."); *Colonial Van & Storage, Inc. v. Superior Ct.*, 76 Cal.

10 App. 5th 487, 506 (2022) (actual and proximate causation are elements of an intentional infliction of emotional distress claim). Indeed, a "fundamental rule of law is that whether the action be in tort or contract compensatory damages cannot be recovered unless there is a causal connection between the act or omission complained of and the injury sustained." *Britz 5 Fertilizers, Inc.*, 665 F. Supp. 2d at 1167. Thus, if the evidence does not demonstrate a causal link, Plaintiffs cannot succeed on any of their claims. Both parties acknowledge that on May 4, 2020, the DMV formally suspended Miggy's Trucking's MCP for failure to obtain the required insurance coverage. See *Jaffe Decl., Ex. D*, *Anderson Decl. at ¶ 14*; *Jaffe Decl., Ex. D*, *Anderson Decl., Ex. 1* at DMV_PROD_0056. Moreover, multiple DMV notices in the record confirm that Miggy's Trucking's MCP would be suspended on May 4, 2020. The DMV's April 28, 2020 Notice of Liability Insurance Cancellation explicitly set forth the requirements that "[t]he new insurance certificate must have an effective date on or before the suspension date" and that a "\$150 reinstatement fee must be submitted prior to reinstatement" if there is a lapse in coverage. See *Duron Depo. Trans., Ex. 40*. The DMV's May 4, 2020 Order of Suspension reiterated these same requirements, namely that MCP reinstatement required insurance with an "effective date on or before 05/04/2020" or in the event of a lapse, that a "\$150 reinstatement fee must be submitted prior to reinstatement." See *7 Duron Depo. Trans. at 85:3-21, 86:7-87:9*; *Duron Depo. Trans., Ex. 8* 40; *Jaffe Decl., Ex. D*, *Anderson Decl. at ¶ 14*. The Nationwide insurance policy at issue in this case bears an effective day of

10 May 15, 2020, meaning that Miggy's Trucking ultimately experienced a ten-day lapse in coverage. See *Duron Depo. Trans.*, 12 Ex. 26.

13 Plaintiffs argue that the DMV's \$150 reinstatement fee was a direct consequence of Nationwide's delay rather than inaction on the Plaintiffs' part, but the undisputed evidence does

not 16 support Plaintiffs' version of the facts. Instead, the evidence 17 shows Miggy's Trucking's MCP suspension preceded the Nationwide 18 policy effective date. See Duron Depo. Trans. at 88:1-23. Both 19 Plaintiff Duron and Steven Hill (Plaintiffs' insurance broker) 20 confirmed in their depositions that Nationwide's coverage began 21 only after Miggy's Trucking's MCP expired on May 4, 2020. 22 Plaintiff Duron stated in his deposition that the Nationwide 23 policy bore an effective date of May 15, 2020. See Duron Depo. 24 Trans., Ex. 26 ["Effective 05/15/20"]; Duron Depo. Trans. at 25 90:8-91:17. Additionally, Steven Hill confirmed in his 26 deposition that it would be impossible for Nationwide's insurance 27 to have an effective date earlier than May 15, 2020 based on the 28 insurance application and that he had not seen any policy issued 1 for Plaintiff Duron "that had an effective date that starts on

2 May 4, 2020." See Jaffe Decl., Ex. B, Deposition Transcript of 3 Steven Hill at 38:12-20, 39:9-15; 37:11-19. 4 As for the \$150 reinstatement fee, DMV records indicate that 5 Plaintiff Duron did not pay the statutorily required fee until 6 after August 12, 2021. See Jaffe Decl., Ex. D, Anderson Decl. at 7 ¶ 19; Jaffe Decl., Ex. D, Anderson Decl., Ex. 1, DMV_PROD_0053; 8 Duron Depo. Trans., Ex. 42; Duron Depo. Trans. at 141:2-143:9. 9 Plaintiff Duron stated at his deposition that it was his 10 responsibility to pay the \$150 reinstatement fee because he 11 acquired a late policy, and that he has no recollection of ever 12 paying it. See Duron Depo. Trans. at 101:1-14, 92:5-20. 13 Under these established facts, Nationwide cannot be said to 14 have "caused" Plaintiffs' injuries as a matter of law because 15 Miggy's Trucking's MCP was suspended prior to Plaintiff Duron's 16 acquisition of the Nationwide policy and no MCP could be reissued 17 without payment of the \$150 fee. Contrary to Plaintiffs' 18 argument, the internal delays that occurred at Nationwide did not 19 cause Plaintiffs' injuries because the DMV could not reinstate 20 Miggy's Trucking's MCP until after Plaintiff Duron had paid the 21 statutorily required \$150 fee. 22 Plaintiffs attempt to create disputes of material fact 23 through their opposition by arguing that Steven Hill 24 "unilaterally cancelled" Plaintiffs' insurance policy when making 25 the switch to Infinity Select Insurance Company and introducing 26 email communications where he appears to concede error, however 27 the actions of Steven Hill and Plaintiffs' prior insurance 28 provider have no bearing on Nationwide's liability. See Opp'n at 1 3. Whether or not Steven Hill switched Plaintiffs' insurance is 2 inapposite because Nationwide only became Plaintiffs' insurer 3 once a lapse and suspension had already occurred. Plaintiffs do 4 not contend that Steven Hill acted on behalf of Nationwide or 5 that he was a principal or agent of the company. Thus, any 6 events preceding the Nationwide policy effective date of May 15, 7 2020 cannot be ascribed to Nationwide. 8 Accordingly, Defendant is entitled to summary judgment 9 because as a matter of law Nationwide was not the cause of the 10 May 4, 2020 MCP suspension or Plaintiffs' resulting injuries.

11 While Plaintiffs purport to dispute certain facts regarding 12 causation, the undisputed dispositive facts pulled from Plaintiff 13 Duron's own deposition testimony and DMV records plainly 14 demonstrate that any lapse in coverage cannot be attributed to 15 Nationwide and that

regardless of Nationwide's processing, 16 Plaintiffs' MCP would remain suspended until Plaintiff Duron 17 complied with DMV requirements and paid the \$150 reinstatement 18 fee. Because no facts supporting causation can be traced to 19 Nationwide, summary judgment is appropriate "since a complete 20 failure of proof concerning an essential element of the nonmoving 21 party's case necessarily renders all other facts immaterial." 22 See Celotex, 477 U.S. at 317.2

23 III. ORDER

24 For the reasons set forth above, Defendant's motion for 25 summary judgment is GRANTED. The Clerk of the Court is directed 26 2The Court's Order should not be construed as to have any bearing 27 on Steven Hill's or Maffei Insurance & Financial Services' potential liability in this case. Those issues are not before 28 this Court.

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1 to enter judgment in favor of Defendant Nationwide Mutual 2 Insurance Company and CLOSE this action. 3 IT IS SO ORDERED. 4 Dated: May 14, 2025 SM is

JOHN A. MENDEZ

7 SENIOR UNITED*STATES DISTRICT JUDGE

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