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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

REDONDO AUTO SPA, LLC, ROCK N ROLL CAR WASH, LLC, and CHRISTOPHER MCKENNA, Petitioners and Plaintiffs, vs. LILIA GARCÍA-BROWER, Labor Commissioner for the State California, Respondent and Defendant.	Case No.: 25TRCP00296 **PETITIONERS/PLAINTIFFS' OPPOSITION TO RESPONDENT/DEFENDANT'S DEMURRER** **DATE: SEPTEMBER 5, 2025** **TIME: 8:30 A.M.** **DEPT: B** **JUDGE: HON. PATRICIA A. YOUNG**

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INTRODUCTION

The Labor Commissioner's demurrer fails because it misconstrues both the allegations and the law. Petitioners[1] allege that the Labor Commissioner's administrative bond demands—issued without notice, hearing, or judicial process—directly caused the cancellation of their surety bonds and forced the shutdown of two lawfully operating businesses. Far from the benign "investigation and notice submission" the demurrer portrays, these demands were aggressive enforcement actions: styled as formal state claims with seals, case numbers, and commands for immediate full-bond payment tied to disputed wage citations exceeding $810,000. By setting in motion a foreseeable chain of third-party harm—functional bond exhaustion, surety cancellations, and market blacklisting—the demands rendered bond replacement coverage unobtainable, all without affording Petitioners any chance to contest the underlying allegations or the demands themselves. The Labor Commissioner thus exercised unchecked executive authority in violation of due process, separation of powers, and inverse condemnation protections under the California Constitution.

At the pleading stage, Petitioners' well-supported allegations must be accepted as true. Petitioners have stated viable claims under article I, sections 7 and 19, and article III, section 3 of the California Constitution. The demurrer should be overruled in its entirety.

FACTS

Petitioners Redondo Auto Spa, LLC and Rock N Roll Car Wash, LLC are car washes in Los Angeles County, co-owned and managed by Petitioner Christopher McKenna. (Pet. ¶¶ 7–9, 29.) Both businesses were duly registered and bonded pursuant to Labor Code section 2055, satisfying all applicable state requirements. (Pet. ¶¶ 7–8, 29.)

In December 2024, Respondent Labor Commissioner issued citations against Petitioners, collectively alleging over $810,000 in wage-related violations, including minimum wage,

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[1] Petitioners and Plaintiffs Redondo Auto Spa, LLC, Rock N Roll Car Wash, LLC, and Christopher McKenna are referred to throughout as "Petitioners."

overtime, rest period, wage statement, waiting time, and liquidated damages claims. (Pet. ¶¶ 9, 30–31.) Citation WA 766384, issued to Rock N Roll Car Wash, assessed $249,007.52 in penalties, while Citation WA 766381, issued to Redondo Auto Spa, assessed $561,912.48. (Pet. ¶ 31.)

In each instance, the same Deputy Labor Commissioner who conducted the underlying investigation also issued the citation and later submitted the bond demand: Deputy Jose Guzman for Rock N Roll Car Wash, and Deputy Christopher Garlington for Redondo Auto Spa. (Pet. ¶¶ 32, 68.) Petitioners timely requested hearings on the citations but waived the default 15-business-day hearing deadline, without waiving any substantive rights concerning the pending bond claims. (Pet. ¶¶ 36, 81.) As of the filing of the Petition/Complaint, no hearing had been held on the bond claims themselves, and the wage-citation hearing for Rock N Roll Car Wash was scheduled for June 11, 2025—months after the businesses had already shut down. (Pet. ¶ 50.)[2]

Shortly after issuing the citations, the Labor Commissioner submitted administrative demands to Petitioners' surety on January 2 and January 9, 2025, seeking immediate payment of the full $150,000 bond amounts for each business. (Pet. ¶¶ 41–42.) These "Notices of Claim Against the Bond" were styled as judicial documents, bearing a state seal, "State Case Number," and language demanding immediate payment as if liability had been adjudicated. (Pet. ¶¶ 42–43; *see* McKenna Decl., Exs. D-E ["This notice constitutes demand on behalf of the workers that all wages and penalties payable by the bond are due in the total amount of $150,000.00."].) Petitioners received no prior notice of these demands or any opportunity to contest them before submission. (Pet. ¶¶ 41, 57, 59.)

The demands triggered the surety's issuance of cancellation notices on January 17, 2025, effective 30 days later pursuant to Labor Code section 2055(b)(2). (Pet. ¶¶ 44, 78.) Petitioners attempted to secure replacement bonds but were rejected by multiple sureties. (Pet. ¶¶ 45, 79.)

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[2] The hearing was later continued to August 19, 2025, and then continued again to undetermined dates at the time of this filing. (*See Rock N' Roll Car Wash LLC*, Cal. Labor Comm'r, Case No. 35-CM-863913-22.)

Unable to operate without active bonds under Labor Code sections 2055(b) and 2060, both businesses ceased operations on February 16, 2025. (Pet. ¶¶ 46, 80.)

The shutdowns caused substantial harm: loss of all economically viable use of business property, forced layoffs of dozens of employees, and estimated damages exceeding $4.2 million, including lost revenue, unrecoverable overhead costs, and a reduced-value sale of Rock N Roll Car Wash. (Pet. ¶¶ 51–54, 86–87.) McKenna was personally harmed through threats to his assets, credit, and reputation. (Pet. ¶¶ 9, 64, 74.) The Labor Commissioner's actions lacked statutory or regulatory authorization for extrajudicial enforcement, bypassing the judicial process contemplated by Code of Civil Procedure section 996.430(a). (Pet. ¶¶ 4, 16–19, 59, 69–70, 78.)

LEGAL STANDARD

In evaluating a demurrer, "all material facts pleaded in the complaint and those that arise by reasonable implication . . . are deemed admitted by the demurring party." (*Rodas v. Spiegel* (2001) 87 Cal.App.4th 513, 517.) "The complaint must be construed liberally by drawing reasonable inferences from the facts pleaded." *Ibid.* "[I]f it appears that the plaintiff is entitled to any relief against the defendant, the complaint will be held good[.]" (*Cmty. Cause v. Boatwright* (1981) 124 Cal.App.3d 888, 896.) Petitioners have alleged facts that are sufficient to state their causes of action; their petition must survive the Labor Commissioner's demurrer.

ARGUMENT

I. Petitioners Have Sufficiently Pleaded Their Due Process Claim

Article I, section 7 of the California Constitution prohibits the deprivation of property without due process of law, requiring—at minimum—notice and a meaningful opportunity to be heard before the government impairs a significant property interest. (*Mathews v. Eldridge* (1976) 424 U.S. 319, 333; *Today's Fresh Start, Inc. v. Los Angeles Cnty. Off. of Educ.* (2013) 57 Cal.4th 197, 212.) Petitioners have adequately pleaded a viable due process claim by alleging that the Labor Commissioner's extrajudicial bond demands triggered the cancellation of their surety bonds, rendered replacement coverage unobtainable, and forced the shutdown of two lawfully

operating businesses—all without prior notice, hearing, or adjudication. (Pet. ¶¶ 41–47, 56–60.) These allegations establish: (1) a protected property interest; (2) a state-caused deprivation; and (3) the inadequacy of existing procedures. The Labor Commissioner misconstrues the pleadings and the law in arguing otherwise.

A. The Labor Commissioner's Actions Constituted a Deprivation of Protected Property Interests

To state a due process claim, petitioners must allege a protected interest and a deprivation without adequate process. (*Today's Fresh Start*, 57 Cal.4th at p. 212.) Here, Petitioners have done so. Businesses have a constitutionally protected property interest in their continued lawful operation, particularly when compliance with regulatory requirements, like bonding under Labor Code section 2055, has been maintained. (*Goat Hill Tavern v. City of Costa Mesa* (1992) 6 Cal.App.4th 1519, 1529–30 [right to continue established business is "vested and important," precluding extinction without due process]; *see also Conway v. State Bar* (1989) 47 Cal.3d 1107, 1113 [protected interest in pursuing licensed profession].) Petitioners allege they operated registered and fully bonded car washes in good standing until the Labor Commissioner's demands effectively revoked that status by compelling bond cancellation and barring replacements. (Pet. ¶¶ 29, 44–46, 60.) This interference went beyond mere economic burden; it extinguished their ability to operate, generate revenue, and retain employees, depriving them of a protected property interest without due process. (Pet. ¶¶ 51–54, 60.)

The Labor Commissioner erroneously argues that no deprivation occurred because the demands "merely assert rights" and do not directly "levy, lien or otherwise affect" property. (Demurrer at 9.)

First, the Labor Commissioner ignores the pleaded causal chain: the demands, styled as authoritative state notices demanding immediate full-bond payment, issued in response to wage citations exceeding $810,000, rendered the bonds "functionally exhausted" and foreseeably

triggered cancellation by the surety. (Pet. ¶¶ 41–43, 47.)[3] The surety did not act independently; it responded directly to the Labor Commissioner's actions, which Petitioners allege were designed to pressure shutdowns without adjudication. (Pet. ¶¶ 44–47.) Such foreseeable third-party harm constitutes state deprivation where, as here, the government "set in motion" the events. (*See Soranno's Gasco, Inc. v. Morgan* (9th Cir. 1989) 874 F.2d 1310, 1317 [agency letters to customers damaging business goodwill constituted deprivation of protected property interest]; *Endler v. Schutzbank* (1968) 68 Cal.2d 162, 170–71 [due process claim stated where accusatory government communications to a broker's employer effectively barred him from continuing in his licensed occupation]; *Northington v. Marin* (10th Cir. 1996) 102 F.3d 1564, 1569 [officials liable for foreseeable third-party actions].)

Similarly, the Labor Commissioner's demands were the "moving force" behind the business shutdowns, triggering foreseeable third-party responses that deprived Petitioners of protected property interests without due process. (*Harper v. City of Los Angeles* (9th Cir. 2008) 533 F.3d 1010, 1026–27 [municipal policy was the "moving force" behind arrests without probable cause, establishing causation]; *see also Arnold v. Int'l Bus. Machs. Corp*. (9th Cir. 1981) 637 F.2d 1350, 1355–56 [§ 1983-proximate cause satisfied where a defendant sets in motion a series of acts by others that foreseeably result in constitutional injury].)[4] The Labor Commissioner knew or should have known that demanding the full $150,000 bond amount, where the underlying wage citations exceeded that figure, would likely lead to cancellation. Sureties reasonably infer that employers cannot reduce such large citations below the bond threshold, making the bond

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[3] Respondent attempts to dismiss this as a "statement of law" rather than fact pleading. (Demurrer at p. 9, fn. 2.) But Petitioners do not claim that bond exhaustion occurs by operation of law—they allege that, under the circumstances presented, surety cancellation was a foreseeable and proximate result of demands issued for the full bond amount in response to large wage citations that have not been adjudicated. These are factual allegations grounded in industry practice and experience, not legal conclusions, and must be accepted as true at this stage. (*Blank v. Kirwan* (1985) 39 Cal.3d 311, 318.)

[4] Because California due process claims follow the federal framework, *Today's Fresh Start*, 57 Cal.4th at p. 212, this causation analysis applies equally under the state constitution.

appear fully exposed. Industry norms treat that as functional exhaustion (i.e., inevitable payout of the penal sum), prompting cancellation.

Additionally, the Labor Commissioner wrongly characterizes the bond demand as a mere "Notice of Claim" under Cal. Code Regs., title 10, section 2695.2(n). (Demurrer at 6.) That regulation defines such notice as a communication that "reasonably apprises the insurer that the claimant wishes to make a claim . . . and that a condition giving rise to the insurer's obligations . . . may have arisen." (Cal. Code Regs., tit. 10, § 2695.2(n).) The demand in this case goes much further. Rather than tentatively notifying the surety that a triggering condition *may* exist, it demands immediate full payment of the $150,000 bond and asserts a binding obligation to pay. This is not "notification" that a claim might arise—it is an outright demand to enforce the bond obligation, asserting that the full amount of the bonds "are due" immediately, in the guise of a regulatory notice. That language exceeds the scope of section 2695.2(n), which contemplates tentative notification of a potential claim that "may" arise, belying any claim that the demand was a passive or informational step.[5]

Moreover, the Labor Commissioner's reliance on *Fascination* and *Hughes* is misplaced. (Demurrer at 11.) Those cases stand for the uncontroversial proposition that the Legislature may regulate entry into licensed occupations under its police power. They do not hold that once a license is issued and lawfully maintained, the State may extinguish it at will without due process. California law draws precisely the opposite distinction: while no one has a vested right to obtain a license in the first instance, once granted, a license or registration confers a constitutionally protected interest in its continued enjoyment so long as the holder complies with governing

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[5] Respondent's reliance on the Civil Code section 47 litigation privilege is misplaced. The privilege applies only to bar tort suits relating to communications made in connection with judicial or quasi-judicial proceedings to achieve the objects of the litigation. (*Silberg v. Anderson* (1990) 50 Cal.3d 205, 212.) The Labor Commissioner's payment demands were not part of any adjudication, but unilateral enforcement notices issued before any hearing. Nor can the privilege insulate conduct that itself constitutes the alleged constitutional deprivation. (*See Kimmel v. Goland* (1990) 51 Cal.3d 202, 211; *see also Westlake Cmty. Hosp. v. Superior Ct.* (1976) 17 Cal.3d 465, 481–82.)

conditions. (*Goat Hill Tavern*, 6 Cal.App.4th at p. 1529–30; *Endler*, 68 Cal.2d at p. 170–71.) "Although the state may of course regulate the qualifications of individuals employed by licensed business establishments and may discipline those licensees who jeopardize the public welfare . . . the state must proceed within the limits of procedural due process in its exercise of such power." (*Endler*, 68 Cal.2d at p. 170.) Here, Petitioners never sought to avoid regulation; they were fully bonded, registered operators in good standing—until the Labor Commissioner's interference functionally revoked Petitioners' lawful registration and licensure. To characterize this deprivation as merely the loss of a "privilege" ignores well-established precedent recognizing that once granted, the ability to continue a licensed business is a protected property interest. (*Conway*, 47 Cal.3d at p. 1113.)

The Labor Commissioner also mischaracterizes *Daniels v. Williams* (1986) 474 U.S. 327, 330. (Demurrer at 9.) That case held only that negligent conduct is not a constitutional deprivation under the Due Process Clause. It did not limit deprivations to "affirmative abuses of power," nor did it suggest that only direct dispossession counts. Rather, courts routinely find due process violations where government conduct intentionally or foreseeably causes loss of a protected interest, even through third-party conduct. (*See, e.g.*, *Soranno's Gasco*; *Endler*; *Harper*.) The Labor Commissioner's intentional issuance of payment demands designed to pressure the surety into cancelling Petitioners' bonds easily meets this threshold.

Finally, the Labor Commissioner's suggestion that the statute of limitations somehow justified informal bond demands (Demurrer at 9–10, 12.) mischaracterizes Petitioners' claim. Petitioners do not dispute the Labor Commissioner's authority to investigate or issue wage citations within the statutory window. Rather, they challenge the method of demanding payment on the car wash bonds before any adjudication of liability on the wage citations: issuing demand letters to the surety styled as official payment orders—declaring that "all wages and penalties payable by the bond are due in the total amount of $150,000.00" (McKenna Decl., Exs. D–E.)—

knowing such notices would predictably result in bond cancellation.[6] This conduct sidestepped due process by leveraging the surety relationship to enforce unproven allegations in a manner that predictably deprived Petitioners of their bonded status and ability to operate. Neither Insurance Code section 790.03(h) nor Civil Code section 2839 authorizes the state to pursue contested liabilities through pressure on third-party guarantors that foreseeably triggers bond cancellations and deprives Petitioners of their ability to operate without due process.[7] And there was no urgency: Labor Code section 90.6 tolls the statute of limitations on most wage claims for at least twelve months after the start of an investigation, providing ample time to pursue formal adjudication. The issue is not whether the Labor Commissioner could act; it is whether she could do so in a way that predictably caused deprivation while bypassing the protections due under the Constitution.

B. Existing Procedures Are Inadequate to Satisfy Due Process

The Labor Commissioner argues that post-deprivation remedies like the Government Claims Act (Gov't Code § 815.2.) supply adequate process, precluding any due process claim. (Demurrer at 10.) But that argument misunderstands the nature of the deprivation. Petitioners do not seek compensation for negligent or incidental harm—they challenge an official enforcement practice that predictably caused business shutdowns without any pre-deprivation opportunity to contest liability. (Pet. ¶¶ 41, 48, 57–59.)

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[6] Petitioners do not contend that the Labor Commissioner is categorically barred from issuing informal notices of claim. But such notices must be just that, notifications of a potential claim, not demands that bear the hallmarks of official state action or immediate liability that offend due process.

[7] These statutes are irrelevant. Insurance Code section 790.03(h) governs insurer conduct, not agency enforcement, and Civil Code section 2839 merely explains how surety liability is extinguished upon payment—it provides no authority for the Labor Commissioner to demand payment without process. In any event, the due process violation arises not from pressure alone but from the demands' foreseeable causation of actual deprivation—business shutdowns—without pre-deprivation notice or hearing.

No state procedure allowed Petitioners to challenge the bond demands before they were sent to the surety. There was no advance notice, no hearing, and no potential stay, even while the underlying wage citations remained un-adjudicated. (Pet. ¶¶ 36, 50, 81.) The wage citation hearing for Rock N Roll Car Wash was set only months after the surety cancellations and still has not been conducted, and in Redondo Auto Spa's case no hearing has been scheduled. That process does not reach the bond demands or prevent the deprivation of bonded status in the first place. (*Ibid.*)

While the Labor Commissioner suggests sureties may conduct their own post-demand review (Demurrer at 10), that does not satisfy the *state's* constitutional duty to provide pre-deprivation procedures when its actions foreseeably interfere with protected property interests. (*Beaudreau v. Superior Ct.* (1975) 14 Cal.3d 448, 458; Pet. ¶¶ 44–45.) Nor does the Tort Claims Act provide a constitutionally sufficient alternative. It offers only post hoc damages for tortious injury, not prospective relief or procedures to prevent an unlawful shutdown, and it applies only after liability has already been adjudicated. (*See, e.g.*, *Brosterhous v. State Bar* (1995) 12 Cal.4th 315, 326, fn. 6 [availability of tort remedies does not bar independent constitutional claims].)

California law requires pre-deprivation safeguards where, as here, the affected interest is substantial and the risk of error high. (*Beaudreau*, 14 Cal.3d at p. 458; *Slaughter v. Edwards* (1970) 11 Cal.App.3d 285, 295.) Petitioners allege structural defects, such as unbounded discretion under Cal. Code Regs., title 8, section 13693(a), that made these deprivations arbitrary and unavoidable. (Pet. ¶¶ 18–20.) Vague regulations and informal enforcement cannot override the requirements of due process. (*Morris v. Williams* (1967) 67 Cal.2d 733, 748.)

II. Petitioners Have Sufficiently Pled Their Separation of Powers Claim

Article III, section 3 of the California Constitution mandates the separation of powers among the legislative, executive, and judicial branches to prevent the arbitrary exercise of authority and preserve institutional checks. (*Manduley v. Superior Ct.* (2002) 27 Cal.4th 537, 557 [separation guards against "combination in the hands of a single person or group of the basic

or fundamental powers of government", quoting *Parker v. Riley* (1941) 18 Cal.2d 83, 89].) Petitioners have adequately pleaded a separation of powers violation by alleging that the Labor Commissioner consolidated investigatory and prosecutorial functions with adjudicative functions in Deputy Labor Commissioners, who investigated violations, issued citations, and submitted bond demands without neutral oversight or judicial process. (Pet. ¶¶ 32, 67–71.) These actions usurped judicial power by effectively determining and enforcing liability through extrajudicial demands that triggered business shutdowns—contrary to the Labor Commissioner's claim that this is mere pre-litigation discretion without judicial bypass. (Pet. ¶¶ 69–70; Demurrer at 14.). The Labor Commissioner misconstrues the allegations as mere executive discretion, ignoring the structural defects that precluded essential safeguards and allowed unilateral resolution of contested liabilities.

A. The Labor Commissioner's Consolidation of Functions Violates Separation of Powers

California courts have long held that the consolidation of incompatible roles within a single agency actor violates separation of powers by creating an unacceptable risk of bias and unchecked authority. (*Nightlife Partners v. City of Beverly Hills* (2003) 108 Cal.App.4th 81, 91–92 [administrative fairness requires separation of prosecutorial and investigatory functions from adjudication]; *Applebaum v. Bd. of Dirs.* (1980) 104 Cal.App.3d 648, 657–58 [combination of roles deprives parties of neutral process].) Petitioners allege precisely this: For each business, a single Deputy Labor Commissioner handled the investigation, citation issuance, penalty assessment, and bond demands—all without external review. (Pet. ¶¶ 32, 68.) This structure allowed one official to act as accuser, judge, and enforcer, determining liability and imposing shutdown consequences unilaterally. (Pet. ¶¶ 5, 68–71.) The consolidation in a single individual here heightens the risk of actual or apparent bias, violating the impartiality required under California law. (*Nightlife Partners*, 108 Cal.App.4th at p. 91–92; *Applebaum,* 104 Cal.App.3d at p. 657–58; *see also Knudsen v. Dep't of Motor Vehicles* (2024) 101 Cal.App.5th 186, 197–98

[structural bias from lack of separation in agency proceedings]; Gov. Code § 11425.30(a) [California Administrative Procedure Act requiring separation of prosecutory and adjudicative functions in agencies to ensure impartiality].)

Respondent dismisses this as lawful executive enforcement, arguing the demands are not "extrajudicial enforcement action[s]" or judgments but "part of the LCO's enforcement options." (Demurrer at 14.) This ignores the pleaded facts: The demands were styled as quasi-judicial notices with state seals, case numbers, and immediate payment commands, giving the appearance of adjudicated liability without court involvement—far from mere "complaints" that initiate process with safeguards, as these demands preemptively enforced unproven claims by triggering irreversible harm. (Pet. ¶¶ 42–43.) The Labor Commissioner's reliance on permissive language in Code of Civil Procedure section 996.430 ("may" enforce by civil action), Civil Code section 2839 (surety satisfaction of obligation), and Labor Code section 96.7 ("may collect" post-investigation) does not authorize bypassing the judicial framework altogether; it contemplates formal process, including joining principals and sureties, not extrajudicial coercion that resolves liability de facto. (Pet. ¶¶ 16, 69.) Such encroachment violates separation principles, as executive agencies cannot "adjudicate" rights without legislative or judicial oversight. (*Knudsen,* 101 Cal.App.5th at p. 197–98 [structural bias from combined roles undermines fairness].)

Moreover, the Labor Commissioner's actions lack valid authorization, further implicating separation-of-powers concerns. Government Code section 11340.5(a) prohibits agencies from enforcing standards without properly adopted regulations. Yet the vague grant of "whatever action . . . appropriate" in Cal. Code Regs., title 8, section 13693(a) provides no procedural limits or safeguards—exceeding the bounds of prosecutorial discretion under *Manduley*, which affirms institutional checks, not unchecked pre-litigation demands that impair judicial functions. (Pet. ¶¶ 19–20, 70; *Ass'n for Retarded Citizens v. Dep't of Developmental Servs*. (1985) 38 Cal.3d 384, 392 [regulations cannot override statutes].) This unbounded discretion allows executive overreach into judicial territory, as alleged. (Pet. ¶¶ 70-71.)

B. The Violation Caused Direct Harm, Including to Petitioner McKenna Individually

The Labor Commissioner's contention that no "encroachment into judicial power" occurred because the demands "anticipate potential judicial proceedings" (Demurrer at 14.) misreads the pleadings. Petitioners allege the demands did not merely anticipate, they executed enforcement by triggering irreversible shutdowns before any court action, effectively preempting judicial review and defeating the checks *Manduley* requires. (Pet. ¶¶ 46–47, 71–73.) This inflicted concrete harm: business closures, revenue losses exceeding $4.2 million, and employee layoffs. (Pet. ¶¶ 51–54.) Petitioner McKenna was personally harmed, as he was named in citations which impose joint liability without neutral adjudication, threatening his assets and reputation. (Pet. ¶¶ 9, 74.)

California courts intervene when executive actions impair judicial functions or lack constitutional checks on the exercise of power. (*Dep't of Fair Emp. & Hous. v. Superior Ct. of Kern Cnty*. (2020) 54 Cal.App.5th 356, 400–01 [branches must not "defeat or materially impair" each other's functions].) Petitioners seek structural relief to restore neutrality, as authorized by mandamus. (Pet. ¶ 75, Prayer ¶¶ 1–3.) The demurrer should be overruled, as these allegations state a valid separation of powers claim.

III. Plaintiffs Have Sufficiently Pleaded Their Inverse Condemnation Claim

Article I, section 19 of the California Constitution prohibits the taking or damaging of private property for public use without just compensation, including through regulatory actions that substantially impair economic use or frustrate investment-backed expectations. (*Penn Central Transp. Co. v. New York City* (1978) 438 U.S. 104, 124; *Lockaway Storage v. Cnty. of Alameda* (2013) 216 Cal.App.4th 161, 185–86.) Petitioners have adequately pleaded an inverse condemnation claim by alleging that the Labor Commissioner's extrajudicial bond demands effected a regulatory taking: They triggered bond cancellations, prevented replacements, and deprived Petitioners of all economically viable use of their businesses, resulting in shutdowns and losses exceeding $4.2 million. (Pet. ¶¶ 76–90.) These actions pursued a public purpose—wage

enforcement—but imposed disproportionate, uncompensated burdens on Petitioners without adjudication. The Labor Commissioner misconstrues the allegations as mere incidental law-enforcement damage, ignoring the pleaded regulatory interference, causation, and economic impact.

A. Petitioners Allege a Protected Property Interest and Compensable Taking

To state an inverse condemnation claim, Petitioners must allege government action that takes or damages private property for public use without compensation. (*Customer Co. v. City of Sacramento* (1995) 10 Cal.4th 368, 377–78.) Petitioners have done so. They operated compliant, bonded car washes with vested interests in continued use, facilities, goodwill, and revenue generation. (Pet. ¶¶ 77, 88.) The Labor Commissioner's bond demands effectively exhausted the bonds, triggered cancellations, and led to a surety market blacklist—rendering continued operations unlawful under Labor Code sections 2055(b) and 2060. (Pet. ¶¶ 78–80.) The result was the loss of all economically viable use, forcing business closures and divestments. (Pet. ¶¶ 82, 85–87; *Monks v. City of Rancho Palos Verdes* (2008) 167 Cal.App.4th 263, 282–83 [shutdown without viable use constitutes taking].)

While the demands purported to advance a public use by enforcing wage laws, they did so through an informal mechanism that bypassed procedural safeguards and shifted the entire burden onto Petitioners by leveraging third-party sureties to impose de facto penalties. (Pet. ¶ 84.) This is not incidental harm arising from ordinary law enforcement, as in *Customer Co*. Rather, Petitioners allege a deliberate regulatory tactic that predictably destroyed business viability based on unadjudicated wage claims—imposing disproportionate costs on individuals for a public program, warranting compensation. (Pet. ¶¶ 78, 89–90; *Belair v. Riverside Cnty. Flood Control Dist.* (1988) 47 Cal.3d 550, 558 [takings liability arises when burdens of a public improvement are unfairly placed on individuals rather than the community].)

B. The Allegations Satisfy the Regulatory Takings Factors

California courts apply the *Penn Central* framework to regulatory takings claims, considering: (1) the economic impact, (2) interference with investment-backed expectations, and (3) the character of the government action. (*Lockaway Storage*, 216 Cal.App.4th at p. 185–86, citing *Penn Central*, 438 U.S. at p. 124.) Petitioners allege facts supporting all three.

First, the economic impact was severe. The shutdowns caused $577,000 in lost revenue per business, $305,000 in unrecoverable sunk costs, and forced the sale of one business at reduced value. Total damages, excluding goodwill loss, exceed $4.2 million. (Pet. ¶¶ 85–87.) Second, the action interfered with reasonable expectations. Petitioners invested in lawful, bonded operations with the legitimate expectation that any enforcement action would follow adjudicated findings, not preemptive shutdowns triggered by bond demands. (Pet. ¶ 88; *Lockaway*, 216 Cal.App.4th at p. 187–88 [interference with valid permit expectations constitutes taking].) Third, the character of the government action was uniquely burdensome. Unilateral demands issued without notice, hearing, or clear statutory authorization caused the functional equivalent of a license revocation based on disputed wage claims that had not been adjudicated. (Pet. ¶¶ 89–90.) This was not routine enforcement but an aggressive circumvention of judicial process through demands on Petitioners' surety, which amplified the burden on Petitioners. That distinguishes this case from *Customer Co*. and renders the loss compensable. (*Bottini v. City of San Diego* (2018) 27 Cal.App.5th 281, 312, cited in Demurrer at 16.)

C. The Labor Commissioner's Objections Fail at the Pleading Stage

The Labor Commissioner argues there was no "damage" caused by the state, and that takings claims do not apply to enforcement actions. (Demurrer at 14–16.) But Petitioners specifically allege that the demands—not the wage citations—were the substantial cause of the bond cancellations and blacklisting by other surety companies. The surety responded directly to the demands, which were styled as official payment orders. (Pet. ¶¶ 79, 90.) The Labor Commissioner's actions were the substantial cause of the deprivation. (*See Belair*, 47 Cal.3d at

559 [government liable in inverse condemnation where its actions were a substantial cause of property damage caused by a public improvement].)

Nor does the availability of tort remedies bar this claim. The Tort Claims Act is irrelevant to a takings inquiry, which arises from the California Constitution's independent guarantee of just compensation for property taken or damaged for public use. Statutory immunities do not insulate the government from liability under Article I, section 19. (*Pac. Bell v. City of San Diego* (2000) 81 Cal.App.4th 596, 602–03 ["the constitutional provisions requiring compensation . . . override[] the Tort Claims Act and its statutory immunities"].) And at the demurrer stage, Petitioners' well-pleaded allegations must be taken as true. (*Blank v. Kirwan* (1985) 39 Cal.3d 311, 318.) The demurrer should be overruled, as these facts state a viable inverse condemnation claim.

CONCLUSION

For the foregoing reasons, the Court should overrule Defendant's demurrer.

DATED: August 22, 2025.

Respectfully submitted,

/s/ Cameron Halling

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DELCARATION OF SERVICE

I, Kiren Mathews, declare as follows:

I am a resident of the State of Texas, employed in Sacramento, California.

I am over the age of 18 years and am not a party to the above-entitled action.

My business address is 555 Capitol Mall, Suite 1290, Sacramento, California 95814.

On August 22, 2025, a true copy of **Petitioners/Plaintiffs' Opposition To Respondent/Defendant's Demurrer** was served on the following by email via One Legal:

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Counsel for Respondent and Defendant

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed this 22nd day of August, 2025, at Justin, Texas.

KIREN MATHEWS