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Department of Fish and Wildlife v. Superior Court of Merced County

Court of Appeal, Fifth District, California - September 23, 2026 - Cal.Rptr.3d - 2026 WL 2859429

Department of Fish and Wildlife (CDFW) petitioned for writ of mandate challenging ruling by the Superior Court, Merced County, denying CDFW's motion for change of venue in action brought by several local government entities, including a city and a school district, asserting causes of action for inverse condemnation, dangerous condition of public property, and nuisance, for property damage caused by flooding after a rainstorm.

The Court of Appeal held that CDFW was not entitled to mandamus ordering change of venue under statute limiting changes of venue in actions against state by a city.

Statute governing venue in actions against state providing that an action by a city against the state could be tried in any city where the plaintiff was situated superseded other statutes governing venue, and thus Department of Fish and Wildlife (CDFW) was not entitled to mandamus relief ordering trial court to grant its motion for change of venue, in action by city seeking compensation for property damage caused by flooding; statute provided that it applied "notwithstanding any provision of law," which included statute providing actions by city could not be tried in city where plaintiff was situated, and reference to statute allowing limited change of venue opportunity where there was reason to believe impartial trial could not be had specifically carved out only portion of that statute as not superseded.

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