

1. PC20200155 FOSTER v. LYON REAL ESTATE ET AL

(1) Motion to Compel - Form Interrogatories

(2) Motion to Compel - Special Interrogatories

(3) Motion to Compel – Request for Production of Documents

Plaintiffs' September 15, 2023, Opposition to this motion indicates that compliant discovery responses have been provided since the Motion to Compel was filed on July 24, 2023. Defendant Remax has not filed a Reply to such Opposition. However, it is not clear that there has been sufficient time for Remax to review the discovery responses, and the request for discovery sanctions remains at issue.

The court will continue this matter to allow the parties to meet and confer to the extent that further responses may be required, or if the parties cannot resolve the matter without judicial intervention, to allow Remax to file a Reply to the Opposition in accordance with the filing deadlines of the El Dorado County Superior Court Local Rules if it still takes the position that the response is inadequate. If a hearing on this motion is required, amended separate statements must be filed in accordance with to California Rules of Court, Rule 3.1345.

If Defendant files an amended separate statement or if Defendant wishes to file any other pleading addressing the issues before the court, including sanctions, it must be filed and served by no later than December 1, 2023. Plaintiff may file and serve a response, if appropriate, by no later than December 8, 2023.

TENTATIVE RULING #1: THIS MATTER IS CONTINUED TO 8:30 A.M. ON FRIDAY, DECEMBER 22, 2023.

IF DEFENDANT FILES AN AMENDED SEPARATE STATEMENT OR IF DEFENDANT WISHES TO FILE ANY OTHER PLEADING ADDRESSING THE ISSUES BEFORE THE COURT, INCLUDING SANCTIONS, IT MUST BE FILED AND SERVED BY NO LATER THAN DECEMBER 1, 2023. PLAINTIFF MAY FILE AND SERVE A RESPONSE, IF APPROPRIATE, BY NO LATER THAN DECEMBER 8, 2023.

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 621-6551 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07; SEE ALSO LEWIS V. SUPERIOR COURT, 19 CAL.4TH 1232, 1247 (1999).

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COUNTY LOCAL RULE 8.05.07. PROOF OF SERVICE OF SAID NOTICE MUST BE FILED PRIOR TO OR AT THE HEARING.

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2. 23CV1465 NAME CHANGE OF RAY-SANTINO LOBESE

Fee Waiver

TENTATIVE RULING #2: APPEARANCES ARE REQUIRED AT 9:00 A.M. ON FRIDAY, SEPTEMBER 29, 2023, IN DEPARTMENT NINE.

IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.

3. 23CV1248 NAME CHANGE OF LUCERO

Petition for Name Change

Petitioner filed a Petition for Change of Name on July 27, 2023.

Proof of publication was filed on September 18, 2023, as required by Code of Civil Procedure § 1277(a).

A background check has been filed with the court as required by Code of Civil Procedure § 1279.5(f).

TENTATIVE RULING #3: ABSENT OBJECTION, THE PETITION IS GRANTED AS REQUESTED.

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4. 22CV0135 LIGHT V. CAMERON PARK SENIOR LIVING, LLC

Motion to Compel – Status Hearing

At the July 14, 2023, hearing on the Motion to Compel responses to discovery, the court signed an Order:

1. Confirming that Requests for Production Nos. 99-104 are awaiting records anticipated to be produced by a public agency pursuant to a Public Records Act Request;
2. Stating that responses to Requests for Production Nos. 105-106 are due by September 29, 2023;
3. Stating that the parties are ordered to meet and confer regarding Request for Production No. 107.
4. Stating that the issue of sanctions would be heard on September 29, 2023.

On September 8, 2023, Plaintiff filed a Supplemental Declaration of Virginia Martucci, dated September 8, 2023, which declares:

1. The parties engaged in meet and confer efforts including a conference call on August 3, 2023 and a letter from Plaintiff's counsel dated August 24, 2023, which is attached to the Declaration as Exhibit B.
2. As to Requests for Production Nos. 99-104, Plaintiffs have not received the requested documents for the year 2016 (Request for Production No. 99) and request the court to order their production;
3. As to Request for Production No. 105 (incident reports related to resident falls between 2017 and 2021), notwithstanding the court's order no documents have been produced and the Plaintiffs request that the court order their production within ten days and issue sanctions;
4. As to Request for Production No. 106 (incident reports related to COVID-19 infections from 2020 to the present), notwithstanding the court's order no documents have been produced and the Plaintiffs request that the court order their production within ten days and issue sanctions;
5. As to Request for Production No. 107 (incident reports related to resident infections from 2017 through 2021), in conducting the meet and confer efforts ordered by the court the parties agreed to limit the scope of this request to UTIS and sepsis, but no documents have been produced and the Plaintiffs request that the court order their production within ten days and issue sanctions;
6. Sanctions are requested in the amount of \$1,410.00, representing three hours of attorney time based on an hourly rate of \$450 plus \$60 filing fee, which does not include supplemental declarations submitted to the court, time attending hearings, or time reviewing documents for responsiveness, which is estimated at an additional two hours of attorney time.

TENTATIVE RULING # 4: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON FRIDAY, SEPTEMBER 29, 2023, IN DEPARTMENT NINE.

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5. PC20200369 PEOPLE OF THE STATE OF CALIFORNIA v. VALENCIA

Trial Confirmation

TENTATIVE RULING 5: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON FRIDAY, SEPTEMBER 29, 2023, IN DEPARTMENT NINE.

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6. PCL20210592 PEOPLE OF THE STATE OF CALIFORNIA v. VACCARO

Claim Opposing Forfeiture

Claimant Vaccaro filed a claim opposing forfeiture in response to a notice of administrative proceedings to determine that \$6,560.15 is forfeited.

“The following are subject to forfeiture: ¶ * * * (f) All moneys, negotiable instruments, securities, or other things of value furnished or intended to be furnished by any person in exchange for a controlled substance, all proceeds traceable to such an exchange, and all moneys, negotiable instruments, or securities used or intended to be used to facilitate any violation of Section 11351, 11351.5, 11352, 11355, 11359, 11360, 11378, 11378.5, 11379, 11379.5, 11379.6, 11380, 11382, or 11383 of this code, or Section 182 of the Penal Code, or a felony violation of Section 11366.8 of this code, insofar as the offense involves manufacture, sale, possession for sale, offer for sale, or offer to manufacture, or conspiracy to commit at least one of those offenses, if the exchange, violation, or other conduct which is the basis for the forfeiture occurred within five years of the seizure of the property, or the filing of a petition under this chapter, or the issuance of an order of forfeiture of the property, whichever comes first.” (Health and Safety Code, § 11470(f).)

At the hearing of October 28, 2022, counsel stipulated to continue the matter and waived notice.

TENTATIVE RULING #6: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON FRIDAY, SEPTEMBER 29, 2023, IN DEPARTMENT NINE.

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ON FRIDAY AFTERNOONS AT 2:30 P.M. THE COURT WILL ADVISE THE PARTIES OF THE LONG CAUSE HEARING DATE AND TIME BY 5:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. PARTIES MAY PERSONALLY APPEAR AT THE HEARING. IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.

7. 22CV1032 ROCKY TOP RENTALS v. PRATHER-RESOVICH

Application for Writ of Possession

On July 26, 2022, Plaintiff filed an action for Claim and Delivery based on the rental of a portable storage building to Defendant; Plaintiff alleges that Defendant has not made a rental payment since August 15, 2020. On October 25, 2022, Plaintiff filed a Notice and Application for Writ of Possession.

At a hearing on March 6, 2023, the court noted that there is no proof of service of the Summons and Complaint, or of the Notice and Application for Writ of Possession on file with the court. At the Plaintiff's request the court continued the hearing to allow Plaintiff to serve Defendant with notice of the application.

On June 15, 2023, Plaintiff filed a declaration of due diligence that described four unsuccessful attempts over the course of ten days to personally serve the Defendant at the last-known address, the address that had been provided on the rental application form.

Code of Civil Procedure § 512.030 governs service of process for writ of possession. It requires service of the Summons and Complaint and the Notice of Application and Hearing to be served personally on the Defendant prior to the hearing. If the Defendant has not appeared and personal service is required, "service shall be made in the same manner as a summons is served under Chapter 4 (commencing with Section 413.10) of Title 5."

Code of Civil Procedure § 415.20 provides a mechanism for leaving a copy of a Summons and Complaint at the address of the person to be served if personal service cannot be completed; however, that section requires leaving it at the location "in the presence of a competent member of the household or a person apparently in charge of his or her office." In this case the process server never saw another person at the property.

The court requires Plaintiff's appearance to establish due diligence to accomplish service.

TENTATIVE RULING #7: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON FRIDAY, SEPTEMBER 29, 2023, IN DEPARTMENT NINE.

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8. 23CV0390 SUN BELT RENTALS INC. v. EARTH FIRST BUILDERS CORP. ET AL

Motion To Consolidate

This action arises over a claim for payment for the rental of a forklift. Defendant requests the court to consolidate the El Dorado County Superior Court action, 23CV0390 with the Sacramento County Superior Court action, Case No. 34-2023-00335758, and transfer the case to Sacramento County Superior Court.

Code of Civil Procedure § 1048(a) authorizes the court to order the consolidation of actions involving common questions of law or fact that are pending before the court. However, in this case only one of the two actions is pending before the El Dorado County Superior Court. Code of Civil Procedure § 403 specifies that it is the court to which a case is transferred that is authorized to order the cases consolidated pursuant to Section 1048.

Code of Civil Procedure § 403 authorizes a judge to “transfer an action or actions from another court to that judge's court for coordination with an action involving a common question of fact or law The court to which a case is transferred may order the cases consolidated for trial pursuant to Section 1048 without any further motion or hearing.” (Emphasis added.)

California Rules of Court, Rule 3.500 (“Transfer and Consolidation of Noncomplex Common-Issue Actions Filed in Different Courts”) applies when a motion under Code of Civil Procedure section 403 is filed requesting transfer and consolidation of noncomplex cases involving a common issue of fact or law filed in different courts. The Rule specifies the findings that a court must make when ordering a case be transferred from another court. California Rules of Court, Rule 3.500(d) (emphasis added).

The court agrees that the two cases are non-complex, involve common questions of law and fact and should be heard by a single court in a single action. However, the applicable statutes require this motion to be addressed to the Sacramento Superior Court to which Defendant requests the case be transferred.

TENTATIVE RULING # 8: DEFENDANT’S MOTION TO CONSOLIDATE AND TRANSFER THE ACTION TO SACRAMENTO COUNTY SUPERIOR COURT IS DENIED.

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT’S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 621-6551 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07; SEE ALSO LEWIS V. SUPERIOR COURT, 19 CAL.4TH 1232, 1247 (1999).

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9. 23CV0518 LE ET AL v. RAM ET AL

Demurrer

Defendant filed a demurrer to Plaintiff's Complaint on June 14, 2023. Plaintiff filed an Amended Complaint on September 1, 2023.

Code of Civil Procedure § 472(a) allows a party to amend its pleading once without leave of the court at any time after a demurrer or motion to strike is filed but before the demurrer or motion to strike is heard if the amended pleading is filed and served no later than the date for filing an opposition to the demurrer or motion to strike.

In this case, the demurrer was filed on June 14, 2023, and originally scheduled for hearing on August 18, 2023. The court rescheduled the hearing date to September 29, 2023, and an opposition to the demurrer was due on September 15, 2023. Code of Civil Procedure § 1005. The Amended Complaint was filed on September 1, 2023, and served it by mail on August 31, 2023. An additional endorsed-filed copy was served by email on September 14, 2023.

Accordingly, the Defendant's demurrer has been rendered moot by the filing of an Amended Complaint.

TENTATIVE RULING #9: DEFENDANT'S DEMURRER IS OVERRULED AS MOOT.

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 621-6551 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07; SEE ALSO LEWIS V. SUPERIOR COURT, 19 CAL.4TH 1232, 1247 (1999).

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ISSUED. PARTIES MAY PERSONALLY APPEAR AT THE HEARING. IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.

10. 23CV0116 LITWIN v. SPECIALIZED LOAN SERVICING, INC.

Motion to Compel

Plaintiff's June 30, 2023, Opposition to this motion indicates that discovery responses have been provided since the Motion to Compel was filed on May 8, 2023. Defendant Specialized Loan Servicing has not filed a Reply to such Opposition. However, the request for sanctions remains at issue.

The court will continue this matter to allow the parties to meet and confer to the extent that further responses may be required, or if issues related to Plaintiff's responses require judicial intervention, to allow Defendant to file a Reply to the Opposition if it takes the position that Plaintiff's response is inadequate. If Plaintiff has provided discovery responses and a hearing on this motion is required regarding the adequacy of those responses, Defendant will be required to file a separate statement in accordance with to California Rules of Court, Rule 3.1345. If adequate discovery responses have been provided the hearing will be limited to the question of sanctions.

If Defendant files a separate statement or if Defendant wishes to file any other pleading addressing the issues before the court, including sanctions, it must be filed and served by no later than December 1, 2023. Plaintiff may file and serve a response, if appropriate, by no later than December 8, 2023.

TENTATIVE RULING #10: THIS MATTER IS CONTINUED TO 8:30 A.M. ON FRIDAY, DECEMBER 22, 2023.

IF DEFENDANT FILES A SEPARATE STATEMENT OR IF DEFENDANT WISHES TO FILE ANY OTHER PLEADING ADDRESSING THE ISSUES BEFORE THE COURT, INCLUDING SANCTIONS, IT MUST BE FILED AND SERVED BY NO LATER THAN DECEMBER 1, 2023. PLAINTIFF MAY FILE AND SERVE A RESPONSE, IF APPROPRIATE, BY NO LATER THAN DECEMBER 8, 2023.

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