

Judge Benson – Law & Motion – Wednesday, October 30, 2024 @ 9:00 AM
TENTATIVE RULINGS

1. 17CV03587 Unipan, Mark v. Reetz, Kimberly et al.

EVENT: Motion for Order Vacating Judgment

Defendant Kimberly Reetz’s Motion for Order Vacating Void Judgment is DENIED WITHOUT PREJUDICE. The proof of service indicates the moving papers were served on a law firm in Georgia. That does not match Plaintiff’s attorney of record according to the court file. According to the court file, Plaintiff’s attorney of record is:

Robert Pollak

1000 Fourth St. Ste. 570

San Rafael, CA 94901

The Court will prepare the order.

2. 20CV01510 Ortega, Ruben et al v. Puig-Palomar, Miguel, MD et al.

EVENT: Defendant Liva Nova USA Inc.’s Motion for a Protective Order Regarding Plaintiff’s Re-Notice of Deposition of Authorized Corporate Representative Larry Petree and Request for Sanctions in the Amount of \$4,750.00

Defendant Liva Nova USA Inc.’s Motion for a Protective Order Regarding Plaintiff’s Re-Notice of Deposition of Authorized Corporate Representative Larry Petree and Request for Sanctions in the Amount of \$4,750.00 is DENIED.

The Court finds good cause exists for a further deposition of Mr. Petree. The critical fact is Defendant’s knowledge. Mr. Petree unambiguously testified there is a known risk when introducing a substantial amount of clotting or clotted blood into the CPB circuit. Although the request for admission does not use the language “known risk”, the request is clearly attempting to ascertain Defendant’s knowledge.

In reviewing the response to the request for admissions, the response makes some admissions but none of those admissions address the question of Defendant’s knowledge

during the prescribed timeframe. Because the remainder of the response is denied, the only conclusion is that LivaNova denied it had any knowledge. Consequently, Plaintiffs are entitled to question Mr. Petree concerning the apparent discrepancy in the responses.

Regarding LivaNova's contention Plaintiffs' already had an opportunity to depose Mr. Petree on these issues, that is not entirely accurate. The response to request for admissions was served in August 2024. Mr. Petree was deposed in 2023. Thus, Plaintiffs did not have the opportunity to question Mr. Petree concerning the discrepancy between his response to request for admissions and his testimony when the depositions took place.

Although Plaintiffs should have filed a motion seeking further deposition testimony, in the interest of judicial economy and considering the issues regarding further deposition have been fully briefed, the parties are directed to proceed. Further deposition shall proceed with the limitations prescribed in Plaintiffs' Second Amended Notice of Taking Deposition of Larry Petree With Production of Documents. All requests for sanctions are denied.

Plaintiffs shall prepare and submit a form of order consistent with this ruling within 2 weeks.

3. 20CV01781 Leland, Morrissey & Knowles, LLP v. Bailey, Catherine et al

EVENT: Motion to Compel Responses to Request for Production of Documents, Set One, Special Interrogatories, Set One, Form Interrogatories, Set One, and to Deem Admissions Contained Within the Request for Admissions, Set One, as Admitted, and Award of Monetary Sanctions

The motion is continued to January 8, 2025 at 9:00am. Ms. Bailey shall serve responses to the discovery requests no later than December 4, 2024. Plaintiff will be permitted to file a supplemental brief no later than December 13, 2024 in the event Plaintiff contests the sufficiency of the responses. In the event no responses are provided by the deadline or Plaintiff accepts the sufficiency of the responses, the Court would appreciate an update from counsel by December 13.

In the event Plaintiff contests the adequacy of Ms. Bailey's responses, Ms. Bailey can file an opposition no later than December 23, 2024.

4. **22CV00518 Rivera, Jose v. Chavoya, Martha, et al.**

EVENT: Defendants Martha Chavoya, Feliciano Chavoya, Feliciano Chavoya Jr., and Alberto Chavoya's Motion to Continue Trial

Defendants Martha Chavoya, Feliciano Chavoya, Feliciano Chavoya Jr., and Alberto Chvoya's Motion to Continue Trial is GRANTED. The trial and related dates are vacated. A Case Management Conference is hereby scheduled for November 27, 2024 at 9:00am.

5. **22CV00964 Barton, John et al. v. Pillai, Josephine et al.**

EVENT: Defendants Americica's Best Value Inn Chico and Josephine Pillai's Motion for Order Imposing Terminating Sanctions and Monetary Sanctions Or, In the Alternative, Evidentiary Issue Sanctions

Defendants America's Best Value Inn Chico and Josephine Pillai's Motion for Order Imposing Terminating Sanctions and Monetary Sanctions is GRANTED. It is apparent that, after almost a year of inactivity, Plaintiffs have abandoned the case. Further sanctions are imposed against Plaintiffs, but not Plaintiffs' counsel in the amount of \$1,860.00.

To summarize, the Court has imposed monetary sanctions against Plaintiffs as follows:

\$2,640.00 on order dated 5/10/24

\$2,400.00 on order dated 9/6/24

\$1,860.00 on the instant order

Total Sanctions Due: \$6,900.00

Total sanctions shall be paid to Defendants within 30 days of notice of this order.

All claims against moving Defendants Americica's Best Value Inn Chico and Josephine Pillai are dismissed with prejudice. (Note: The Court does not believe it has the authority to strike the complaint in an instance such as this where another non-moving defendant (Red Lions Hotel Corporation) exists)

Defendants shall prepare a form of order consistent with this ruling within 2 weeks.

6-11. 23CV00528 Rosinski, Melinda et al v. Piercey, Matthew et al.

- EVENT: (1) Defendant Rodney Piercey's Demurrer to the First Amended Complaint*
(2) Defendant Rodney Piercey's Motion to Strike Portions of the First Amended Complaint
(3) Defendant Piercey & Associates LTD's Demurrer to Plaintiff's First Amended Complaint
(4) Defendant Piercey & Associates LTD's Motion to Strike Plaintiff's First Amended Complaint
(5) Defendant Kenneth Piercey's Demurrer to Plaintiff's First Amended Complaint
(6) Defendant Kenneth Piercey's Motion to Strike Plaintiff's First Amended Complaint

Defendants' Rodney Piercey, Kenneth Piercey, and Piercey and Associates LTD (hereinafter referred to collectively as "Moving Defendants") Demurrer is Sustained in Part and Overruled in Part as set forth herein. To the extent the demurrer is sustained with leave to amend, Plaintiffs shall, if they so choose, amend within 20 days of notice of this order.

Moving Defendants' Request for Judicial Notice is GRANTED.

Preliminarily Moving Defendants note Plaintiffs have added many brand new causes of action as well as new Defendants despite not seeking leave to amend and despite the fact our previous order did not permit them to add any new causes of action. The objection is well taken. Plaintiffs are admonished going forward to follow the Code of Civil Procedure and seek leave to amend if they seek to add new causes of action beyond the scope of the Court's order or new Defendants. However, in the interests of judicial economy, the Court will consider the merits of the new causes of action for purposes of these motions.

Regarding Defendant Piercey & Associates, the demurrer is SUSTAINED WITH LEAVE TO AMEND on the additional ground that the First Amended Complaint ("FAC") does not allege Rodney Piercey and Kenneth Piercey are alter egos of Piercey & Associates. Because the allegations in the FAC relate to Rodney Piercey and Kenneth Piercey (but fails to allege alter ego in relation to Piercey & Associates) the FAC does not currently state a legal basis for liability with respect to Piercey & Associates.

As to Defendant Kenneth Piercey, the Court acknowledges the FAC contains relatively few allegations concerning him specifically. However, as discussed below, on demurrer we are required to make all reasonable inferences in favor of Plaintiffs. In light of Kenneth and Rodney's familial relationship and their business relationship, it is reasonable to infer for

purposes of demurrer that any knowledge acquired by Rodney was subsequently obtained by Kenneth.

Demurrer

Uncertainty

The demurrer is overruled as to this ground. Demurrers for uncertainty are disfavored. (See *Lickiss v. Financial Industry Regulatory Authority*, (2012) 208 Cal. App. 4th 1125, 1135) However, if Plaintiffs elect to amend the Court strongly encourages them to correct the typographical errors.

Fraud (As to All Moving Defendants)

The demurrer is SUSTAINED WITH LEAVE TO AMEND.

Misrepresentation

Fraud allegations involve a serious attack on character and therefore are pleaded with specificity. (*Cansino v. Bank of America*, (2014) 224 Cal. App. 4th 1462, 1468) The particularity requirement demands that a plaintiff plead facts which show how, when, where, to whom, and by what means the representations were tendered. (*Id*)

However, less specificity is required if the defendant would likely have greater knowledge of the facts than the plaintiff. (*Chapman v. Skype Inc.*, 220 Cal. App. 4th 217, 231)

Weil & Brown California Practice Guide (The Rutter Group) (2022) Civil Procedure Before Trial, Demurrer, [7:44]

No matter how unlikely: The sole issue raised by a general demurrer is whether the facts pleaded state a valid cause of action – not whether they are true. Thus, no matter how unlikely or improbable, plaintiff’s allegations must be accepted as true for the purpose of ruling on demurrer. [*Del E. Webb Corp. v. Structural Materials Co.* (1981) 123 CA3d 593, 603]

CACI 1900 Intentional Misrepresentation

1. That defendant represented to plaintiff that a fact was true;
2. That defendant’s representation was false;
3. That defendant knew that the representation was false when [he/she/nonbinary pronoun] made it, or that [he/she/nonbinary pronoun] made the representation recklessly and without regard for its truth;
4. That defendant intended that plaintiff rely on the representation;
5. That plaintiff reasonably relied on defendant’s representation;
6. That plaintiff was harmed;

and

7. That plaintiff's reliance on defendant's representation was a substantial factor in causing [his/her/nonbinary pronoun/its] harm.

At the outset, the Court finds the FAC has sufficiently plead elements 2,3, and 6. Regarding the first element, in reviewing the FAC it appears Plaintiffs are attempting to allege misrepresentations by moving defendants in either one of two ways – by making moving defendants vicariously liable for misrepresentations made by Matthew Piercey (hereinafter “Matthew”) and/or by representing that Matthew was an employee or agent of moving defendants. (FAC, ¶ 125(j))

As to the former basis, Plaintiffs have filed a separate cause of action for fraud on vicarious liability grounds which the Court will subsequently address. Because the vicarious liability ground is separately plead, it is duplicative to the extent it is relied on in the fraud cause of action. Since it is duplicative, the vicarious liability theory cannot also be a ground for the fraud cause of action. Thus, the fraud cause of action depends on the viability of the representation that Matthew was an employee or agent of moving defendants.

Defendants contend the FAC fails to allege that any of them had any direct contact with Plaintiffs. However, the Court is unaware of any authority requiring direct contact. Ostensibly, the Paragraph 125(j) is premised on the marketing materials and the video that was on Family Wealth Legacy's (“FWL”) website. Plaintiffs alleged that they relied on these representations (albeit in conclusory fashion as discussed herein). Thus, although the representations were not necessarily specific to Plaintiffs, they were allegedly directed to FWL investors and Plaintiffs were a part of that group.

Defendants also contend there are no allegations describing how they were involved with the creation or dissemination of the marketing materials and the video on the FWL website. The Court finds these facts fall into the category of “defendant would likely have greater knowledge of the facts than the plaintiff.” (See *Chapman, supra*)

Ultimately, the Court finds element 1 has been adequately plead.

As to element #4 and intent the Court finds element # 4 also falls under the category of “defendant would likely have greater knowledge of the facts than the plaintiff.” Additionally, allegations Defendants were receiving referrals of FWL clients could support a trier of fact's finding that Defendants intended to induce reliance on the representation in order to increase referrals to them and/or as a quid pro quo to FWL in consideration of the referrals.

As to element #5 and reasonable reliance, the FAC fails to specifically allege reliance. The FAC alleges reliance in conclusory fashion. Unlike some of the other elements, this element is within the Plaintiffs' personal knowledge. Plaintiffs must allege to what extent they relied. Are they claiming they would not have made the investments had they known FWL was separate and unassociated from Moving Defendants, or would they have invested even if they knew the truth? Element # 5 is not sufficiently plead.

For similar reasons, element #7 has not been sufficiently plead. If Plaintiffs would have invested having known the truth, any misrepresentation would not have been a substantial factor in causing Plaintiffs' harm.

Concealment

The Court reincorporates the previous analysis to the extent there are overlapping issues.

CACI 1901 Concealment

[1.(a) That defendant and plaintiff were [insert type of fiduciary relationship, e.g., "business partners"]; and

(b) That defendant intentionally failed to disclose certain facts to plaintiff;

[or]

[1.That defendant disclosed some facts to plaintiff but intentionally failed to disclose [other/another] fact[s], making the disclosure deceptive;]

[or]

[1.That defendant intentionally failed to disclose certain facts that were known only to [him/her/nonbinary pronoun/it] and that plaintiff could not have discovered;]

[or]

[1.That defendant prevented plaintiff from discovering certain facts;]

2.That plaintiff did not know of the concealed fact[s];

3.That defendant intended to deceive plaintiff by concealing the fact[s];

4.That had the omitted information been disclosed, plaintiff reasonably would have behaved differently;

5.That plaintiff was harmed;

and

6.That defendant's concealment was a substantial factor in causing plaintiff's harm.

Preliminarily, the Court finds elements 2,3, and 5 have been adequately plead for the same reasons previously discussed. Also, for the same reasons discussed, elements 4 and 6 have not been adequately plead and the demurrer is sustained on that basis.

Regarding element #1, Plaintiffs have failed to allege sufficient facts demonstrating a fiduciary relationship between Plaintiffs and moving defendants. The Court notes paragraph 22 of the FAC alleges Rodney Piercey (hereinafter “Rodney”) was a founder of FWL. However, earlier in this case evidence was presented in connection with the Rodney’s motion to quash based on lack of personal jurisdiction. As part of that motion, Rodney Piercey provided a notarized Assignment of Membership indicating an assignment of Rodney’s interest in FWL in March of 2015. The Court takes judicial notice of that document.

According to the FAC, Plaintiffs did not start making investments until November 2017. Consequently, paragraph 22 cannot provide a basis for establishing Rodney as a fiduciary.

Outside of paragraph 22, the FAC simply makes conclusory allegations concerning Defendants’ status as fiduciaries. The FAC does not allege Plaintiffs retained Defendants for their services. The mere fact other investors were referred to moving Defendants does not by itself transform moving Defendants into fiduciaries. The FAC fails to adequately allege a fiduciary relationship.

As CACI 1901 provides, there are other instances in which a claim may stand despite no fiduciary relationship. One instance is where “defendant makes representations but does not disclose facts that materially qualify the facts disclosed.” As with the misrepresentation analysis, the only misrepresentation alleged is that the firm and related defendants were holding themselves out or that they are vicariously liable for Matthew’s misrepresentations. The same analysis provided *supra* applies on the representation issue.

As to the second part, reading the FAC as a whole, Plaintiffs allege the marketing materials and/or the video on FWL’s website failed to qualify the fact that the firm and related defendants were not associated and/or agents of each other, and that the defendants themselves failed to ever qualify that fact, at least as it applies to these Plaintiffs. The Court finds the FAC has adequately alleged this subpart to element #1.

Corporations Code §§ 25401 And 25501

The Demurrer is SUSTAINED WITH LEAVE TO AMEND.

Rodney Piercey

If the Court is understanding Plaintiffs’ theory under this cause of action correctly, Plaintiffs’ theory is premised on Matthew’s misrepresentations in connection with Plaintiffs’ investments. According to the FAC, Plaintiffs’ investments occurred from a time period spanning from 2017 through June 10, 2019. Further, it is the court's understanding that plaintiffs are attempting to impose liability on defendants as third parties pursuant to Corporations Code section 25504.

Corp. Code § 25504. Persons jointly and severally liable with violator

Every person who directly or indirectly controls a person liable under Section 25501 or 25503, every partner in a firm so liable, every principal executive officer or director of a corporation so liable, every person occupying a similar status or performing similar functions, every employee of a person so liable who materially aids in the act or

transaction constituting the violation, and every broker–dealer or agent who materially aids in the act or transaction constituting the violation, are also liable jointly and severally with and to the same extent as such person, unless the other person who is so liable had no knowledge of or reasonable grounds to believe in the existence of the facts by reason of which the liability is alleged to exist.

The Court finds the “broker-dealer” issue is moot in light of its finding in the fraud claim that allegations Matthew was an agent of moving defendants falls into the “less specificity is required when defendant would likely have greater knowledge” rule.

As a result, for purposes of demurrer only, moving defendants would fall under the broad categories under section 25504 of an agent or a person who directly or indirectly controls a person. As with the fraud cause of action, the Court is unaware of any requirement that moving Defendants contact Plaintiffs directly.

Regarding Defendants’ privity argument, strict privity is only required for claims of primary liability, see *Moss v. Kroner*, (2011) 197 Cal. App. 4th 860, 874.

As to the materially aiding requirement, the Court re-incorporates its discussion concerning fraud, including the rule that less specificity is required when defendant would likely have greater knowledge.

As to the underlying fraud or omission, the corporate securities statutes are less demanding than common law fraud. (See Corp. Code 25006; *Lynch v. Cook*, (1983) 148 Cal. App. 3d 1072, 1087 [proof of reliance is not required and proof of causation is not required]) Despite the lower standard, section 25401 still requires an untrue statement of material fact or an omission of material fact. The FAC alleges reliance in conclusory fashion. This is insufficient. The FAC must be amended to allege facts explaining why the misrepresentation/omission was material.

Kenneth

The demurrer is sustained on the same grounds – Plaintiffs must allege facts explaining why the misrepresentations/omissions were material.

Piercey & Associates

The demurrer is sustained on the same grounds – Plaintiffs must allege facts explaining why the misrepresentations/omissions were material.

Corporations Code § 16308

(As to all Moving Defendants)

The Demurrer is SUSTAINED WITHOUT LEAVE TO AMEND.

The Court agrees with Defendants that section 16308 only applies to partnerships. Section 16308 is contained in the chapter entitled “Relations of Partners to Persons Dealing with Partnership”. In this context it is clear section 16308 only applies to partnerships.

The FAC alleges Piercey & Associates is an Illinois limited corporation. Due to the sham pleading rule, Plaintiffs cannot amend to allege otherwise. Consequently the demurrer is sustained without leave to amend.

Common Law Vicarious Liability for Fraud

The demurrer is SUSTAINED WITHOUT LEAVE TO AMEND as the demurrer is unopposed.

Constructive Fraud

(As to All Moving Defendants)

The demurrer is SUSTAINED WITH LEAVE TO AMEND. As discussed in the fraud (concealment) analysis, Plaintiffs have failed to allege facts demonstrating a fiduciary relationship.

Aiding and Abetting a Breach of Fiduciary Duty

(As to Defendants Rodney Piercey and Kenneth Piercey)

The demurrer is SUSTAINED WITH LEAVE TO AMEND.

Preliminarily, the Court agrees with defendants that the attempted sale cannot, as a matter of law, support the aiding and abetting a breach of fiduciary duty claim. The Court fails to see how an attempted sale, as opposed to a completed sale satisfies the substantial assistance requirement. A failed sale does not assist the primary wrong doer in any manner.

California courts have long held that liability for aiding and abetting depends on proof the defendant had actual knowledge of the specific primary wrong. (*Casey v. U.S. Bank Nat. Assn.*, (2005) 127 Cal. App. 4th 1138, 1145) However, knowledge alone is not what is required. [A]iding and abetting ... necessarily requires a defendant to reach a conscious decision to participate in tortious activity for the purpose of assisting another in performing a wrongful act.” (*Id*) [Emphasis Added]

Although the FAC alleges many “wrongs” it does not sufficiently allege facts demonstrating Defendants made a conscious decision to participate in the underlying conduct.

Unfair Competition Law (Business and Professions Code § 17200 et seq.)

(As to Rodney Piercey and Kenneth Piercey)

The demurrer is OVERRULED.

Defendants state “Exhibit A is not an advertisement for the sale of investments by Rodney.” This argument, while perhaps persuasive to a trier of fact, is not an argument we can consider on demurrer. Again, on demurrer, we draw all reasonable inferences in favor of plaintiff, not defendant. (*Bank of New York Mellon v. Citibank, N.A.*, (2017) 8 Cal.App.5th 935, 952)

Drawing all inferences in favor of Plaintiffs, Family Wealth Legacy LLC is displayed prominently throughout the marketing materials and a person reading the materials could come to the conclusion that FWL and moving defendants were one and the same or at least associated. The FAC clearly alleges FWL is the entity that took Plaintiffs’ investments.

In reading the FAC as a whole, it appears one of Plaintiffs’ theories is moving defendants at some point became aware of the marketing materials but because they were receiving referrals they didn’t bother to inform clients of their disassociation or do anything to correct the misrepresentation. If proved, that could support a basis for unfair business practices. Whether that conduct, (again if proved) constituted an unfair business practice would be within the purview of the trier of fact.

Negligent Misrepresentation

(As to all Moving Defendants)

The demurrer is SUSTAINED WITH LEAVE TO AMEND for the same reasons set forth in the fraud cause of action.

As with the fraud causes of action, Plaintiffs need to specifically plead facts regarding reliance and causation as those elements are within their personal knowledge. However, as to the other elements, as previously discussed, those matters are matters in which it would be expected defendants would have superior knowledge of the facts. Those elements have been sufficiently plead for demurrer purposes.

Common Law Vicarious Liability for Negligent Misrepresentation

The demurrer is SUSTAINED WITHOUT LEAVE TO AMEND as the demurrer is unopposed.

Unjust Enrichment

(As to Moving Defendants)

The Demurrer is SUSTAINED WITHOUT LEAVE to amend.

Preliminarily, there appears to be a split of authority among appellate courts concerning whether unjust enrichment is or is not a standalone cause of action. However, are the court declines ruling on that specific issue here.

The Third District Court of Appeal, which is binding on this Court, has held a claim for restitution based on unjust enrichment is duplicative of UCL claims. (See *Collins v. eMachines, Inc.*, (2011) 202 Cal. App. 4th 249) Because the Court has overruled the demurrer as to the UCL cause of action, dismissal of the unjust enrichment claim in this particular case is proper.

Motion to Strike

As the court noted at the outset, counsel is admonished to follow the Code of Civil Procedure as it pertains to amendment of complaints, but for purposes of judicial economy the motion is overruled concerning the new defendants and the new causes of action.

Regarding punitive damages, the motion is granted with leave to amend. The demurrer has been sustained as to all causes of action except unfair business practices. Consequently, as currently constructed the FAC fails to provide a basis supporting punitive damages. Plaintiffs shall, if they so choose, amend within 20 days of notice of this order.

Moving Defendants shall prepare and submit a form of order consistent with this ruling within 2 weeks.

12-13. 23CV01381 Kravica, James v. Novak, Larissa

EVENT: (1) Defendant's Motion for Order to Expunge Notice of Pendency of Action, To Confirm Abandonment of Personal Property, and For Attorney Fees and Costs in the Amount of \$12,516.82

(Continued from 9/25/24 and 10/9/24)

(2) Defendant's Motion to Deem Personal Property Abandoned, And For Storage Fees and Attorney Fees Pursuant to Civil Code § 1951.3

Defendant's Motion for Order to Expunge Notice of Pendency of Action, To Confirm Abandonment of Personal Property, and For Attorney Fees and Costs in the Amount of \$12,516.82 is GRANTED IN PART.

In light of the Court's ruling on summary judgment, the request to expunge the Lis Pendens is GRANTED.

Regarding the request for attorney fees, the Court finds Plaintiff did not act with substantial justification in pursuing this action, consequently the request for attorney fees is GRANTED. Defendant is awarded \$9,600.00 in attorney fees.

As to the request to "Confirm Abandonment of Personal Property", the request is DENIED WITHOUT PREJUDICE. The moving papers state the motion is pursuant to Civil Code § 1951.3. However, section 1951.3 makes clear that "This section applies to real property ..." (Civ. Code § 1951.3(a)) Thus, section 1951.3 is inapplicable because Defendant seeks to confirm abandonment of personal property, not abandonment of real property.

Sections 1980-1992 of the Civil Code pertain to "Disposition of Personal Property on Premises at Termination of Tenancy". The key phrase is "at Termination of Tenancy". Defendant states in conclusory fashion that Plaintiff was evicted on 9/18/23 and 8/23/24. The Court is unclear what Defendant means by "evicted." The Court notes there were (2) unlawful detainer cases involving these parties - 22UD02398 and 23UD00696. Both cases were dismissed at the request of Ms. Novak's counsel at the time, Mr. Rooney.

Ultimately, the Court is not finding any judgment or court order indicating the lease has been terminated or any order or judgment requiring the eviction of Plaintiff. The termination of the tenancy appears to be a pre-requisite to the statutorily authorized relief of Civil Code §§ 1980-1992. Absent this predicate requirement, the Court has no authority to grant relief under Civil Code §§ 1980-1992.

Plaintiff (tenant) filed this case for quiet title. The ruling on summary judgment in this case in no way constitutes a ruling that Plaintiff was evicted. Nor does the ruling in this case address the status of the lease, whether the lease has been terminated, or whether

Plaintiff should be removed from the property. The ruling on summary judgment in this case only stands for the proposition that Plaintiff's quiet title claims were rejected. It stands for nothing more.

It appears to this Court the next steps necessarily involve the Unlawful Detainer division, not the Unlimited Civil Division. As an aside, in this Court's observation, requests concerning abandonment of personal property are most commonly made in Unlawful Detainer Court in conjunction with underlying unlawful detainer proceedings.

Ultimately, the Court finds it has no authority or jurisdiction to grant the relief requested as the motion is presently presented.

The Court will prepare the order.

14. 23CV01731 Rodriguez, Slavador, Jr. v. RGIS LLC

EVENT: Motion for Preliminary Approval of Settlement

Motion for Preliminary Approval of Settlement is continued to December 4, 2024 at 9:00am.

CRC 3.769(c)

Preliminary approval of settlement Any party to a settlement agreement may serve and file a written notice of motion for preliminary approval of the settlement. The settlement agreement and proposed notice to class members must be filed with the motion, and the proposed order must be lodged with the motion.

[Emphasis Added]

There is no proof of service in the Court file demonstrating Defendant was served with the moving papers. Plaintiff shall file a proof of service indicating Defendant was served with the moving papers. Also, Plaintiff shall file a proof of service confirming compliance with Labor Code § 2699(s)(2).

15. **24CV01753 In re: Terian, Madylin Nayiri**

EVENT: Change of Name (adult) (Continued from 7/17/24)

The Court is in receipt of the proof of publication and will sign the decree provided.

16. **24CV02471 In re: Viamontes, Katherine Cecilia**

EVENT: Change of name (adult)

The Court is in receipt of the proof of publication and will sign the decree provided.

17. **24CV02818 In re: Cowan, Sammantha Marie**

EVENT: Change of name (adult)

The Court is in receipt of the proof of publication and will sign the decree provided.

18. **24CV02974 In re: Lyman-Crespo, Alice Marie**

EVENT: Change of name (adult)

There is no proof of publication on file. Upon the filing of the proof of publication, the Court will sign the decree provided.

19. 24CV02992 In re: Nyholm-Goncalves, Claire Alexia

EVENT: Change of name (adult)

The Court is in receipt of the proof of publication and will sign the decree provided.

20. 24CV03145 Campos, Uriel v. Collins, Chris

EVENT: Motion to Quash Service of Summons

Based on the contents of the Complaint this is not an unlimited case – it is an unlawful detainer case. The Complaint alleges causes of action for forcible entry and forcible detainer. Both of those actions are authorized pursuant to CCP §§ 1159 and 1160 respectively. Importantly both of those sections are under the Chapter entitled “Summary Proceedings of Obtaining Possession of Real Property”. [Emphasis Added]

The clerk is directed to transfer the file in this case and assign an unlawful detainer case number. Upon completion of that task, this case will be dismissed without prejudice. Defendant’s pending motion to quash will be set on the unlawful detainer calendar on November 15, 2024 at 1:30pm in Department 5.

The Court will prepare the order.

21. 23PR00432 Conservatorship of Nolta, Madeleine U

*EVENT: Petitioner Stephen B. Cowee’s Motion for a Stay of Judgment *Special Set*

Petitioner Stephen B. Cowee’s Request for Judicial Notice is granted. The Motion for a Stay of Judgment is granted. Upon the filing of an undertaking with the Court in the amount of \$7,800.00, execution of the Court’s Order dated August 21, 2024 for the award of sanctions in the amount of \$3,900.00 against Stewart C. Altemus, Altemus & Wagner, and Stephen Cowee is stayed pending appellate review.

22. 24CV03585 Fair Political Practices Commission v. Fennell, David et al

EVENT: Complaint for Injunctive Relief and Monetary Penalties

The Court will hear from the parties.