

Judge Benson – Law & Motion – Wednesday, May 21, 2025 @ 9:00 AM
TENTATIVE RULINGS

1. 21CV02255 Haliburton, Lauren v. Hunsdorfer, Barbara

EVENT: Defendants Dolores Pia and the Estate of Robert Pia's Motion to Enforce Settlement by Order: (1) Scheduling Deadline for Plaintiffs' Filing of a Petition for Minor's Compromises; (2) Scheduling hearing on Approval of Minor's Compromises; and (3) Advancing Status Conference Re Dismissal

Defendants Dolores Pia and the Estate of Robert Pia's Motion to Enforce Settlement by Order: (1) Scheduling Deadline for Plaintiffs' Filing of a Petition for Minor's Compromises; (2) Scheduling hearing on Approval of Minor's Compromises; and (3) Advancing Status Conference Re Dismissal is DENIED WITHOUT PREJUDICE.

Preliminarily, until Defendants sign the settlement, enforcement under CCP § 664.6 is inapplicable. Additionally, because it appears there are disputes between Plaintiffs concerning distribution, and because Plaintiffs are scheduled to mediate the dispute, the Court finds the Status Conference of October 1, 2025 provides for a "reasonable time" under the circumstances. However, if Plaintiffs fail to meet their self-imposed deadline of August 15, 2025, the Court would consider a renewed motion setting forth deadlines for the minor's compromise petitions.

Plaintiffs shall prepare an order consistent with this ruling within 2 weeks.

2. 22CV00409 Char-Dor Realty v. Rainwater

EVENT: Motion to Be Relieved as Counsel (Counsel for Rainwater Construction, Inc.)

The Court will hear from counsel. There is no proof of service on file as to either the client or opposing counsel.

3. **22CV00822 Grimes, Emma v. Kennemer, Franklin R et al.**

EVENT: OSC re: Dismissal (Continued from 4/9/25 and 5/7/25)

The Court is in receipt of the proposed judgment. The OSC is vacated.

4. **23CV00369 Yates, Chad v. Ellenberger, Jared**

EVENT: Motion to Be Relieved as Counsel (Counsel for Jared Ellenberger)

Counsel is ordered to appear. There is no proof of service on file as to either the client or opposing counsel.

5. **23CV02789 Ronald R. Titus, as Trustee of the 2005 Titus Trust et al. v. Vina Groundwater Sustainability Agency**

EVENT: Defendant Vina Groundwater Sustainability Agency's Demurrer to Fourth Amended Complaint

First Cause of Action for Reverse Validation

The demurrer is OVERRULED.

Preliminarily, the Court agrees with Defendant – Butte County Cattleman's Association (BCCA) does not have standing to challenge fees assessed under Water Code section 10726.6(d). Water Code section 10726.6(d) limits standing to Rev & Tax Code § 5140.

Rev & Tax Code § 5140. Standing to bring action against city or county for tax refund

The person who paid the tax, his or her guardian or conservator, the executor of his or her will, or the administrator of his or her estate may bring an action only in the superior court, but not in the small claims division of the superior court, against a county or a city to recover a tax which the board of supervisors of the county or the city council of the city has refused to refund on a claim filed pursuant to Article 1 (commencing with Section 5096) of this chapter. No other person may bring such an action; but if another should do so, judgment shall not be rendered for the plaintiff.

[Emphasis Added]

Plaintiffs' opposition attempts to differentiate many cases cited by Defendant by noting that none of the parties involved in the cases involved an association coupled with members who paid the tax. Even if the cases are differentiated, Plaintiffs have failed to cite any case standing for the proposition that an association has standing under the Tax Code because its members paid the tax.

Thus, when the dust settles, all we have to go off of is the plain language Rev & Tax Code § 5140. The last sentence of 5140 is explicit to the degree that the only interpretation is there are no exceptions other than the enumerated exceptions of guardian conservator, etc. Thus, the Court concludes BCCA does not have standing under Water Code section 10726.6(d).

However, the pleading is not specifically limited to Water Code section 10726.6(d). For example, see paragraph 44. Paragraph 44 seeks to invalidate Defendants "Approvals".

Water Code § 10726.6. Action to determine validity of plan; Proceeding to attack fees

(a) A groundwater sustainability agency that adopts a groundwater sustainability plan may file an action to determine the validity of the plan pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure no sooner than 180 days following the adoption of the plan.

[Emphasis Added]

Subdivision (a) is not limited to the recovery of fees charged. Rather the language broadly concerns the validity of the plan. On demurrer, the court accepts all facts alleged in the complaint as true, and draws all reasonable inferences from those facts in favor of the plaintiff. (*Kruss v. Booth* (2010) 185 Cal.App.4th 699, 713) We read the complaint as a whole and its parts in context to give the complaint a reasonable interpretation. (*Ring v. Harmon* (2021) 72 Cal.App.5th 844, 850)

Reading the Fourth Amended Complaint as a whole, the pleading sufficiently alleges a challenge under Water Code § 10726.6(a). As Plaintiffs' note, the standing requirements of Rev & Tax Code § 5140 do not apply to subdivision (a).

Thus, although BCCA lacks standing under Water Code § 10726.6(d), the demurrer must be overruled because BCCA has adequately alleged a claim under Water Code § 10726.6(a). If there are sufficient facts pled or that can be inferred reasonably to state a cause of action under any theory, the demurrer must be overruled. (*Lin v. Coronado* (2014) 232 Cal.App.4th 696, 700)

Second Cause of Action for Declaratory Relief

The demurrer is overruled. While Water Code Water Code § 10726.6(d) is an adequate remedy for past violations as a post payment procedure, the section provides no remedy concerning prospective violations. The Fourth Amended Complaint alleges the imposition of an annual fee. Making all reasonable inferences in favor of Plaintiffs, as we are required to do

at this stage, the pleading alleges imposition of prospective fees. Thus, the declaratory relief cause of action is adequately supported by allegations of prospective conduct.

Concerning Defendant's argument that the declaratory relief cause of action is "fully engaged" by the reverse validation cause of action, such a finding would require the Court to make inferences against Plaintiffs. Because the pleading adequately alleges prospective harm, we cannot conclude at this stage that the declaratory relief claim is superfluous.

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

6-11. 23CV02816 PPB Oroville Pads LLC v. Underwood, Jack Lyle

EVENT: (1) Cross-Defendant Cornish & Carey Commercial DBA Newmark Cornish & Carey's Motion to Compel Defendant/Cross-Complainant Jack Lyle Underwood's Further Responses to Form Interrogatories, Set One and Request for Sanctions in the amount of \$3,705 against Defendant and his counsel

(2) Cross-Defendant Cornish & Carey Commercial DBA Newmark Cornish & Carey's Motion to Compel Defendant/Cross-Complainant Jack Lyle Underwood's Further Responses to Form Interrogatories, Set Two and Request for Sanctions in the amount of \$3,705 against Defendant and his counsel

(3) Cross-Defendant Cornish & Carey Commercial DBA Newmark Cornish & Carey's Motion to Compel Defendant/Cross-Complainant Jack Lyle Underwood's Further Responses to Request for Production of Documents, Set One, and Request for Sanctions in the amount of \$3,705 against Defendant and his counsel

(4) Cross-Defendant Cornish & Carey Commercial DBA Newmark Cornish & Carey's Motion to Compel Defendant/Cross-Complainant Jack Lyle Underwood's Further Responses to Request for Production of Documents, Set Two, and Request for Sanctions in the amount of \$3,705 against Defendant and his counsel

(5) Cross-Defendant Cornish & Carey Commercial DBA Newmark Cornish & Carey's Motion to Compel Defendant/Cross-Complainant Jack Lyle Underwood's Further Responses to Special Interrogatories, Set One, and Request for Sanctions in the amount of \$3,705 against Defendant and his counsel

(6) Cross-Defendant Cornish & Carey Commercial DBA Newmark Cornish & Carey's Motion to Compel Defendant/Cross-Complainant Jack Lyle Underwood's Further Responses to Special Interrogatories, Set Two

On the Court's motion, the discovery motions are continued to June 11, 2025 at 9:00am. The Court will permit the late filed opposition to the motion concerning Special Interrogatories Set Two. Newmark shall file and serve a reply to this opposition no later than May 28, 2025.

12. 24CV00905 Discover Bank v. Zamuido, Jose

EVENT: Opposition to Claim of Exemption

The Court will conduct a hearing.

13. 24CV02636 Barclays Bank Delaware v. Martha Leach

EVENT: Plaintiff's Motion for Judgment on the Pleadings

Plaintiff's Motion for Judgment on the Pleadings is GRANTED. The Court takes judicial notice of the order deeming admissions admitted. Based on the admissions, the answer fails to state sufficient facts to constitute a defense to the complaint.

14. 24CV04214 Barclays Bank Delaware v. Hackney, Holly

EVENT: Plaintiff's Motion for Deeming Requests for Admissions Admitted

Plaintiff's Motion for Deeming Requests for Admissions Admitted is GRANTED. The Court will sign the proposed order.

15. 25CV00966 JG Wentworth Originations, LLC v. J.M.

EVENT: Verified Petition for Approval of Transfer of Payment Rights (Continued from 4/30/25)

The Court will hear from counsel and the payee.

16. 25CV00985 In re: Rosado, Jestina

EVENT: Change of name (minor)

The Court will hear from Petitioner.

17. 25CV01047 In re: Campos, Elizabeth Patricia

EVENT: Change of name (adult)

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

18. 25CV01063 In re: Kyle, Vasthy

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.