

Judge Benson – Law & Motion – Wednesday, July 16, 2025 @ 9:00 AM
TENTATIVE RULINGS

1-2. 21CV03075 Hall, Chantelle v. City of Chico et al.

EVENT: (1) Defendant City of Chico's Motion for Summary Judgment

(2) Defendant Reed Francis' Motion for Determination of Good Faith Settlement

Counsel is ordered to appear.

Preliminarily, Defendant City of Chico's Motion for Summary Judgment is continued to September 10, 2025 at 9:00am.

CCP § 437c(b)(3)

The opposition papers shall include a separate statement that responds to each of the material facts contended by the moving party to be undisputed, indicating if the opposing party agrees or disagrees that those facts are undisputed. The statement also shall set forth plainly and concisely any other material facts the opposing party contends are disputed. Each material fact contended by the opposing party to be disputed shall be followed by a reference to the supporting evidence. Failure to comply with this requirement of a separate statement may constitute a sufficient ground, in the court's discretion, for granting the motion.

[Emphasis Added]

Here, the opposition does not include a separate statement. The Court will allow Plaintiff one opportunity to correct this defect. If Plaintiff does not dispute any of the facts in the City's separate statement, she shall so state. The opposition appears to rest entirely on the contention that the sidewalk was recently altered. As noted, CCP § 437c(b)(3) requires a separate statement include "plainly and concisely any other material facts the opposing party contends are disputed." Thus, Plaintiff must necessarily provide a separate statement which includes facts supporting her sidewalk alteration arguments.

Plaintiff shall file a proper separate statement no later than July 30, 2025. If no separate statement is filed by that date, the motion will be deemed unopposed. The City shall file its supplemental response no later than August 15, 2025.

Regarding the merits of the motion, the Court desires clarification on the following issues:

1) What is the current scope of the pleading? The function of the pleadings in a motion for summary judgment is to delimit the scope of the issues. (*Falcon v. Long Beach Genetics, Inc.* (2014) 224 Cal.App.4th 1263, 1280) Is the pleading limited to the 2021 injury, or does the pleading include a separate claim and legal theory that the subject sidewalk, as a result of the recent alterations, is not compliant with the rules concerning altered facilities?

What is the City's position as to the scope of the pleading? The Court notes that the Complaint alleges at paragraph 14, "To date, the City has not made the sidewalk at the facility readily accessible ..." [Emphasis Added]

2) Regarding the 2021 injury, is there any legal authority supporting application of the more stringent ADA requirements for altered sidewalks when the subject accident occurred prior to alteration? The Court struggles to see how the altered sidewalk rules apply when the undisputed facts appear to be that the sidewalk was unaltered at the time of the 2021 injury.

3) The Court is inclined to order further briefing on the issue of whether a defect in a public sidewalk caused by a tree root from an adjacent private property constitutes an "architectural barrier". Briefing will be limited to 3 pages each and will be due by August 15, 2025.

4) The Court is concerned that the City has failed to meet its initial burden on summary judgment. As noted, the issues are framed by the pleading. The pleading clearly alleges architectural barriers, yet the moving papers failed to address the issue of architectural barriers. Only in the reply does the City address the theory of architectural barriers.

Motion for Determination of Good Faith Settlement

The Motion is Granted. The Court will sign the proposed order.

3-4. 22CV00348 AquAlliance et al v. Biggs-West Gridley District et al

EVENT: (1) Motion to File Third Amended Complaint

(2) Defendants And Respondents Biggs-West Gridley Water District, Butte County, Butte Water District, City of Biggs, City of Gridley, Colusa Groundwater Authority, Glenn County, Reclamation District 1004, Reclamation District 2106, Richvale Irrigation District and Western Canal Water District's Notice of Motion and Motion to Strike Plaintiffs' Second Amended Complaint In Validation And Petion for Writ of Mandate

MOTION TO FILE THIRD AMENDED COMPLAINT

The motion is denied without prejudice.

Paragraph 1

Paragraph 1 identifies all the named defendants and then alleges "violations of the Sustainable Groundwater Management Act ..." This, on its face, does not comply with prior orders which found violations of SGMA are not viable with respect to GSA Defendants based on the doctrine of Judicial Abstention. Although Plaintiff is correct in that the Judicial Abstention issue was only adjudicated with respect to GSA Defendants, Plaintiffs need to amend and clarify that SGMA violations are alleged with respect to DWR only.

Paragraphs 79-88

The Court will permit these allegations at this time, but it is in no way commenting on their legal viability. As noted, the previous rulings were not directed to DWR. The Court has not formally adjudicated whether the Doctrine of Judicial Abstention precludes alleged SGMA violations with respect to DWR. We are required to interpret a pleading in context. Here, the context of paragraphs 79-88 are with respect to DWR only.

Plaintiff shall file a renewed motion with a proposed TAC consistent with this ruling within 20 days.

MOTION TO STRIKE SECOND AMENDED COMPLAINT

The motion is denied without prejudice. In the event Plaintiffs fail to file a renewed motion for leave to file a Third Amended Complaint within the prescribed time, the Court would consider a renewed motion concerning the Second Amended Complaint. Requests for sanctions are denied, however, Plaintiffs' counsel is admonished to comply with the Court's orders to the extent they are explicit. For example, the Court explicitly struck the Reverse Validation Cause of Action.

Plaintiffs shall prepare and submit the form of order within 2 weeks.

5. 23CV00369 Yates, Chad v. Ellenberger, Jared

EVENT: Motion for Order: (1) Approving Receiver's Final Report and Accounting; (2) Approving Receiver's Final Fees and Expenses; (3) Approving Distribution of Receivership Estate Funds; (4) Ratifying Acts of Receiver; (5) Discharging Receiver; and (6) Exonerating Receiver's Undertaking

The Court will hear from counsel and the parties. The proof of service for this motion indicates Mr. Ellenberger, who is now in pro per, was served by email. Pursuant to CCP § 1010.6(c), electronic service on a pro per party is not permitted unless there is evidence Mr. Ellenberger consented to electronic service as prescribed in CCP § 1010.6(c)(3).

If there is no such evidence, the Court is inclined to continue this hearing to August 27, 2025 at 9:00am so that the Receiver can serve the motion on Mr. Ellenberger via mail.

As to the report and accounting provided by the Receiver, it is generally sufficient. There is a potential issue with respect to the personal property items, the location of which is unknown according to the Receiver.

The Court will hear from the parties as to whether these items still exist. If they do not, the order will be modified accordingly. If the items exist, the parties must provide the Receiver with their location. If any of the items are within a party's possession or control, the party is ordered to release any item(s) to the Receiver forthwith. If items exist and their locations are provided to the Receiver, this motion will be further continued so that the Receiver can liquidate the items.

If the items exist, but the location is unknown, the Court will defer ruling on the personal property items until the Court trial. The order will be modified accordingly.

6-17. 23CV01538 Lockler, Sonia v. Meriam Park Blocks Apartments et al

EVENT: (1) Plaintiff's Motion to Have Requests for Gonzalez Company Development LLC's Admissions Deemed Admitted or in the Alternative Compelling Answers;

(2) Plaintiff's Motion to Compel Gonzales Development Company LLC's Responses to Form Interrogatories, Set One;

(3) Plaintiff's Motion to Compel Gonzales Development Company LLC's Responses to Special Interrogatories, Set One;

(4) Plaintiff's Motion to Compel Gonzales Development Company LLC's Responses to Production of Documents, Set One

(5) Plaintiff's Motion to Have Requests for Meriam Park Blocks Apartments' Admissions Deemed Admitted or in the Alternative Compelling Answers;

(6) Plaintiff's Motion to Compel Meriam Park Blocks Apartments Responses to Form Interrogatories, Set One;

(7) Plaintiff's Motion to Meriam Park Blocks Apartments Responses to Special Interrogatories, Set One;

(8) Plaintiff's Motion to Compel Meriam Park Blocks Apartments Responses to Production of Documents, Set One

(9) Plaintiff's Motion to Have Requests for The MP Blocks, LLC's Admissions Deemed Admitted or in the Alternative Compelling Answers;

(10) Plaintiff's Motion to Compel Responses to The MP Blocks, LLC's Form Interrogatories, Set One;

(11) Plaintiff's Motion to Compel The MP Blocks, LLC's Responses to Special Interrogatories, Set One;

(12) Plaintiff's Motion to Compel The MP Blocks, LLC's Responses to Production of Documents, Set One

All discovery motions are denied as moot. Requests for sanctions are denied. However, any and all objections included in the discovery responses are deemed waived. In light of this ruling, the Court finds no practical benefit in requiring further responses that remove the objections.

Weil & Brown, California Practice Guide: (the Rutter Group 2024) Civil Procedure Before Trial

[8:1180] Ruling on motion to compel further answers: The granting or denial of a motion to compel rests within the court's sound discretion.

[8:1181] Factors considered: The ruling usually is based on consideration of the following factors:

- The relationship of the information sought to the issues framed in the pleadings;
- The likelihood that disclosure will be of practical benefit to the party seeking discovery;
- The burden or expense likely to be encountered by the responding party in furnishing the information sought. [Columbia Broadcasting System, Inc. v. Sup.Ct. (Rolfe) 1968 263 CA2d 12,19 69 CR 348, 352]
[Emphasis Added]

Defendants shall prepare the order.

18. 23CV02654 Feng, Zhu v. Xie, John et al.

EVENT: Objection to Defendants' Memorandum of Costs and Judgment Language

The Court will hear from Plaintiff and counsel. The Court is inclined to grant this motion (which it deems a motion to strike and/or tax costs) in part and reduce the filing fee costs to \$20.00. Both Defendants received fee waivers. Court records indicate neither Defendant paid the first appearance fee (because it was waived). Defendants did incur a \$20.00 fee on March 7, 2024 regarding a stipulation that was filed. The Court is inclined to deny the motion in all other respects.

19. 24CV00887 Gibson, Casey v. Aristotle Custom Homes LLC et al.

EVENT: Motion to be relieved as counsel (Counsel for Defendants) (Continued from 6/11/25)

At the previous hearing, the Court noted that the motion failed to include mandatory Judicial Council form MC-052 and continued the matter for counsel to file the same. As of this writing MC-052 has not been submitted. If the form is not submitted by the hearing and there are no appearances, the motion will be denied without prejudice.

20. 24CV02216 Garbolinsky, Greg v. Gillingham, Jeffrey Duke Paul et al

EVENT: Motion to Be Relieved as Counsel (Plaintiff's counsel) (Continued from 6/11/25)

At the previous hearing, the Court noted that the motion failed to include mandatory Judicial Council form MC-052 and continued the matter for counsel to file the same. As of this writing MC-052 has not been submitted. If the form is not submitted by the hearing and there are no appearances, the motion will be denied without prejudice.

21. 24CV02465 Wells Fargo Bank, N.A. v. Aoyagi, Carla M

EVENT: Plaintiff's Motion for Summary Judgment

Plaintiff's Motion for Summary Judgment is GRANTED. Plaintiff has met its initial burden demonstrating no triable issue of fact exists on each element of each cause of action and the motion is unopposed. The Court will sign the proposed order and judgment.

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

EVENT: OSC re: Contempt (Continued from 4/16/25)

The Court will conduct a hearing.

23. 24CV03917 JP Morgan Bank v. Van Rooyen, Trevor J

EVENT: Plaintiff's Motion to for Order that Matters in Request for Admission of Truth of Facts Be Deemed Admitted

Plaintiff's Motion to for Order that Matters in Request for Admission of Truth of Facts Be Deemed Admitted is GRANTED. The Court will sign the proposed order.

24. 25CV01923 In re: Brewer, Michelle Jean

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.

25. 25CV01933 In re: Evenson, Heather

EVENT: Change of name (minor)

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

26. 25CV01952 In re: Fitzhugh, Cosette Christine

EVENT: Change of name (adult)

The Court will hear from Petitioner.

27. 25CV01998 In re: Spittle-Waters, Deborah Ann

EVENT: Change of name (adult)

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