

**Judge Benson – Law & Motion – Wednesday, August 13, 2025 @ 9:00 AM**  
**TENTATIVE RULINGS**

**1-2.      22CV00518 Rivera, Jose v. Chavoya, Martha et al.**

*EVENT: (1) Defendants Martha Chavoya, Feliciano Chavoya Jr., and Alberto Chavoya's Motion for Leave to File Verified Cross-Complaint*

*(2) Defendants' Motion to Be Relieved from Deemed Admissions*

*Defendants' Motion to Be Relieved from Deemed Admissions*

The motion is DENIED. The Court agrees with Plaintiff – the “withdrawal or amendment” language in CCP § 2033.300 does not include the opportunity to provide initial responses when none were provided in the first instance. The language “withdrawal or amendment” presupposes a response of some kind was initially provided. Section 2033.300 requires an admission made in “*response* to a request for admission”, which indicates an affirmative response by the party seeking to amend, as opposed to an admission that was deemed admitted as the result of no response.

Defendants/Cross-Complainants cite *New Albertsons, Inc. v. Superior Court* (2008) 168 Cal.App.4th 1403. That case is not helpful because it involved an attempt to withdraw an admission that was previously made. In other words, it was an attempt to withdraw a previous response. Because Defendants have failed to cite any authority suggesting that CCP § 2033.300 allows a party to provide initial responses after the admissions were deemed admitted, CCP § 2033.300 is inapplicable to these facts.

To the extent the motion implicates relief pursuant to CCP 473(b), such a request is untimely as it is well beyond the 6-month limit.

*Motion for Leave to File Verified Cross-Complaint*

In light of the Court's ruling regarding admissions, the first issue is how the admissions affect the viability of the proposed cross-complaint? The proposed cross-complaint includes causes of action for accounting, declaratory relief, and quiet title. The essence of the allegations in the proposed cross-complaint with respect to the quiet title cause of action is that the quit claim deed transferring an interest in the property to Plaintiff is fraudulent, and cross-complainants dispute that Plaintiff has any ownership interest in the property.

Those allegations are incompatible with the admissions, specifically the admissions which admit that Plaintiff is an owner of the subject property. This leads to the inescapable conclusion that the quiet title cause of action is not viable in light of the admissions. Consequently, the quiet title cause of action is barred.

The accounting cause of action alleges cross-complainants contributed to improvements, mortgages, taxes, and insurance, and are entitled to contribution from Plaintiff/Cross-Defendants. In reviewing the admissions, the Court finds nothing that would negate the accounting cause of action.

Regarding the declaratory relief cause of action, because it could theoretically relate to the accounting cause of action, the Court finds it is viable for the purposes of this motion. (Note: this ruling should not be construed as a final adjudication concerning the legal viability of the accounting and declaratory relief causes of action. The Court is simply finding in the context of this motion for leave to amend, the pleading may be filed.)

Pursuant to the liberal rule under CCP § 426.50 permitting amendment at any time, the motion is granted in part as discussed supra. The Court finds no evidence amounting to bad faith.

Cross-Complainants shall file a cross-complaint omitting the quiet title cause of action within 20 days of this order.

Plaintiff shall prepare and submit an order consistent with this ruling within 2 weeks.

**3. 24CV00887 Gibson, Casey v. Aristotle Custom Homes LLC et al.**

*EVENT: Motion to be Relieved as Counsel (Continued from 6/11/25 and 7/16/25)*

The Court will hear from counsel. The Court is in receipt of the filed mandatory form MC-052. However, there is no proof of service demonstrating that MC-052 was served on Plaintiff and defense counsel in compliance with CCP § 1005. The Court is inclined to continue the hearing to September 17, 2025 at 9:00 am for the filing of the proof of service.

4. **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 and 7/16/25)*

The Court will hear from counsel. The Court is in receipt of the filed mandatory form MC-052. However, there is no proof of service demonstrating that MC-052 was served on Plaintiff and defense counsel in compliance with CCP § 1005. The Court is inclined to continue the hearing to September 17, 2025 at 9:00 am for the filing of the proof of service.

5. **25CV01358 In re: Jenkin, Maureen**

*EVENT: Change of name (adult) (continued from 6/11/25)*

The Court will hear from Petitioner.

6. **25CV01952 In re: Fitzhugh, Cosette Christine**

*EVENT: Change of name (adult) (Continued from 7/16/25)*

At the previous hearing the Court noted the Petition needed to be amended to provide an accurate birthdate. If there is not an amended petition submitted by the hearing and there are no appearances, the Petition will be dismissed without prejudice.

7. **25CV02246 In re: Sanger, Al Abdul**

*EVENT: Change of name (minor)*

There is no proof of publication on file. Additionally, as of this writing the Court is awaiting the results of the background check.

8. **25CV02331 In re: Thompson, Leah Nicole**

*EVENT: Change of name (adult)*

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

9. **24UD04177 Norman Hueckel Trustee of the Hueckel Family Trust v. Platinum Health Services**

*EVENT: Motion to Vacate and Set Aside Judgment*

Motion to Vacate and Set Aside Judgment is DENIED.

Regarding notice to cure, Plaintiff has provided uncontroverted evidence that it provided notice as prescribed in the stipulation. Defendant does not deny that an email was sent to the address provided in the stipulation.

Defendant's argument of mistake due to no notice of the ex parte seeking judgment is irrelevant in light of the term in the agreement which waived the right to a noticed motion. The only way that argument could have legal relevance is if the term was deemed to be legally unenforceable, and Plaintiff has made no such argument.

The remaining factual question is whether the agreement was or was not breached. Plaintiff has produced evidence that it received the June payment on June 11, 2025. Defendant does not specify when in June it paid Plaintiff, which leads the Court to conclude that the June 11 date is accurate. Because Plaintiff provided notice of the breach in accordance with the agreement, the late payment on June 11 was a breach of the agreement.

Consequently, per the terms of the agreement, Plaintiff is entitled to possession. The stay issued with respect to the judgment dated June 25, 2025 is hereby lifted.

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

