

Judge Benson – Law & Motion – Wednesday, April 11, 2026 @ 9:00 AM
TENTATIVE RULINGS

1. 24CV03276 Dommer, Jeanne v. Bushman, Katherine

EVENT: Application for Interlocutory Judgment Approving Partition By Sale of Real Property and Appointment of Real Estate Broker

Preliminarily, CCP 872.250 requires the filing and recording of a Lis Pendens. Although the Real Property Partition Act (hereinafter “Act”) applies to this case, the Act does not appear to address the Lis Pendens requirement. Because the Act does not address it, the Lis Pendens requirement supplements the Act. Thus, pursuant to CCP 874.313, the Lis Pendens requirement would still apply to partition actions under the Act. Here, the Court does not see any indication in the record that a Lis Pendens was filed and recorded.

Additionally, the Court finds that Defendant’s default status does not change the valuation and buyout procedures mandated in CCP 874.316 and 874.317. Plaintiff notes that Defendant “is in default and has made no election.” However, Defendant’s opportunity to buyout Plaintiff under 874.317 is predicated on a valuation of the property pursuant to 874.316. The Court struggles to see how Defendant can make an “election” absent a valuation.

Section 874.316(b) provides an exception to the valuation procedure where the parties have agreed to the value of the property. The Court cannot imply that Defendant has agreed to anything simply by virtue of her default status. The general rule is that a defaulted party is considered “out of court” and is not entitled to notice of further proceedings or file pleadings (*Heathman v. Vant* (1959) 172 Cal.App.2d 639, 647)

The Court notes it has found no case law addressing the issue of whether Defendant’s default status authorizes the Court to bypass the valuation and buyout procedures. Absent such guidance, and until the Legislature addresses the issue, the Court finds section 874.317 provides Defendant with an opportunity to buy out Plaintiff irrespective of default status. Thus, Plaintiff must abide by the requirements of sections 874.316 and 874.317.

The Court is inclined to find, pursuant to 874.316(c) that the evidentiary value of an appraisal is outweighed by the cost of an appraisal, and therefore set an evidentiary hearing for March 2, 2026 at 8:30am. Per subdivision (c), once the market value is determined, notice of the value would be sent to the parties, which would trigger the 45 day period under section 874.317 for Defendant to serve notice that she intends to buy Plaintiff out. Assuming that time frame expires and Defendant fails to provide notice, Plaintiff could then resubmit this motion.

2-3. 25CV03376 Li, Yi v. AMCAL Chico, LLC et al.

EVENT: (1) Defendants' Motion to Set Aside Default

(2) Plaintiff's Request for Default Judgment

Both motions are continued to March 4, 2026 at 9:00am. The Court is inclined to grant Defendants' motion to set aside the default, but the moving papers do not include a proposed responsive pleading as required by CCP 473(b). While Defendants ask the Court to grant this motion and then allow 30 days to file a responsive pleading, the code simply does not permit that. Defendants shall submit their proposed pleading no later than February 24, 2026.

As an aside, Plaintiff filed an opposition without a proof of service. Plaintiff is admonished that going forward a proof of service (which complies with the Code of Civil Procedure) must be accompanied with documents filed with the Court and served on opposing counsel.

4. 25CV04716 In re: Huffmon, Maia Elizabeth Catherine

EVENT: Change of name (adult) (Continued from 1/28/26)

There is no proof of publication on file. If there is no proof of publication submitted and no appearances the petition will be dismissed without prejudice.

5. 25CV04777 Alvarado, Katherine Leila v. Englund, Jessee Raymond et al.

EVENT: Motion to Strike Portions of Complaint

Motion to Strike Portions of the Complaint is DENIED.

Preliminarily the motion is defective on notice grounds as there is no proof of service accompanying the moving papers. The motion also fails on the merits.

The police report attached to the moving papers is not a proper subject for judicial notice. Even if it was, we can only take notice of its existence, we cannot accept the truth of disputed facts. (See *Julian Volunteer Fire Co. Assn. v. Julian-Cuyamaca Fire Protection Dist.* (2021) 62 Cal.App.5th 583, 600) Additionally, a challenge to a pleading cannot be turned into a contested evidentiary hearing through the guise of having the court take judicial notice of documents whose truthfulness or proper interpretation are disputable. (*Fremont Indemnity Co. v. Fremont General Corp.*, (2007) 148 Cal. App. 4th 97, 113)

Pursuant to CCP 437 a motion to strike cannot be based on extrinsic matters. Thus, the police report and all other extrinsic information presented in this motion cannot be considered.

Plaintiff shall prepare a form of order within two weeks.

6. 25CV04866 In re: Van Gorder, Alexa Kelly Jacqueline

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.

7. 25CV04998 In re: Krusch, Lila

EVENT: Change of name (adult)

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

8. **26CV00395 Butte County Animal Control v. Donald Brewer, et al.**

EVENT: Petition to Determine if Dog is Vicious

The Court will conduct a hearing.