

**Judge Mosbarger – Law & Motion – Wednesday, December 7, 2022 @ 9:00 AM
TENTATIVE RULINGS**

1. 18CV03051 CANAM MINERALS, INC ET AL V. BCJ SAND AND ROCK, INC ET AL

EVENTS: (1) David Griffith's Motion to be Relieved as Counsel for Valley Silica

(2) David Griffith's Motion to be Relieved as Counsel for BCJ Sand and Rock, Inc.

(3) Plaintiffs' Motion to Strike Answers of Defendants BCJ Sand and Rock, Inc. and Valley Silica dba Valley Sand & Rock, Inc., and for Entry of Default

The Motions to Be Relieved as Counsel filed by David Griffith are granted and Mr. Griffith is relieved as counsel for Defendant Valley Silica dba Valley Sand & Rock and Defendant and Cross-Complainant BCJ Sand and Rock, LLC, effective upon the filing of the proof of service of the signed order upon the clients. The Court vacates the Trial Readiness Conference on December 8, 2022 at 1:30 p.m. and the Jury Trial on December 12, 2022 at 8:00 a.m. and sets the matter for a Case Management Conference on January 25, 2023 at 10:30 a.m. for resetting of the trial dates. The Court will sign the form of order submitted by counsel with modification to Paragraph 5.a. to reflect the effective date of the order and Paragraph 7 to include the correct future dates.

Plaintiffs' Motion to Strike Answers of Defendants BCJ Sand and Rock, Inc. and Valley Silica dba Valley Sand & Rock, Inc., and for Entry of Default was served on November 16, 2022 by electronic mail and overnight mail, which is only 13 Court days before the hearing on the Motion. CCP §1005(b) and CCP §1010.6(a)(4)(B) require an additional 3 Court days and an additional 2 Court days where service is made by electronic email and an additional 3 Court days and an additional 2 calendar days when service is by overnight delivery. Notice is therefore insufficient and the motion is denied.

2. 22CV00218 TACALO, ALEXANDRA ET AL V. LARA, ANTHONY ET AL

EVENT: Defendants' Demurrer to Plaintiff's Complaint

Defendants' Request for Judicial Notice is granted. Because the entirety of the present civil complaint is related to charged criminal offenses which are still pending, Government Code §945.3 requires the present civil action against Defendants City of Gridley and Anthony Lara arising from the January 22, 2021, arrest to be dismissed without prejudice until resolution of those criminal charges. The Demurrer is unopposed, is sustained, and this matter is dismissed without prejudice to allow Plaintiffs to re-file after the resolution of the criminal charges. The Case Management Conference on May 17, 2023 is vacated. Defendants shall submit a form of order within two weeks.

3. **22CV00426 REID, CARL C V. FRANCIS, GEORGE M**

EVENT: Motion to be Relieved as Counsel

There is no proof of service in the Court's file and as such, notice does not comply with Cal Rules of Ct 3.1362(d) or Code of Civil Procedure §1005. The Motion is continued to January 11, 2023 at 9:00 a.m. to allow for proper notice and filing of a proof of service. Additionally, the Case Management Conference on December 14, 2022 is continued to March 1, 2023 at 10:30 a.m.