

# Superior Court of California County of San Benito



## Tentative Decisions for June 26 , 2026

### **Courtroom #2: Judge Pro Tempore Page Galloway**

#### **CU-21-00541 Midland Credit Management, Inc. v. Arnold Navarro et al. 6-26-2026**

On calendar for Defendant's motion to set aside default pursuant to CCP §§473(b) and 473.5.

Plaintiff: Christopher D. Mandarich (Midland Credit Management, Inc)

Defendant: Self-Represented (Navarro, Arnold)

Underlying case involves collection on consumer debt. Proof of personal service filed 1-31-22 asserting service on 1-21-22. Default was taken 3-21-22, and Default Judgment entered 3-25-22 in the sum of \$3678.07.

Argument: Defendant asserts he was not served with this suit, claiming though he resides at the address stated in the proof of service, he was living outside the country from December 2023 through May 9, 2026. He asserts he never received any documents nor was ever served with the summons and complaint and the first time he became aware of the suit was 5-9-26. He asserts he is taller than the person described. (6'2" vs 5'8") He asserts had he known, he would have appeared and defended, as he has meritorious defenses. CCP §473.5 requires a party show that service did not result in actual notice in time to defend, that the motion is timely, and the defendant has a meritorious defense. HE had no actual notice, he filed within the statutory period and he has valid defenses. HE also is eligible for 473(b) relief as his default was taken through is surprise inadvertence or excusable neglect. Because he was never actually served, the judgment is void, not merely voidable as the court never had proper

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jurisdiction over him. His defense is that he is not familiar with the debt alleged or its legitimacy. A full defense would be made if the motion is granted. THE courts favor resolving cases on their merits.

In opposition: The record establishes that the Defendant was personally served at his residence address in the proof of service filed 1-31-22. The process server personally delivered the summons and complaint to the Defendant after he identified himself by stating his name, and accepted service by direct delivery. A minor discrepancy in the process server's estimation of height or weight. His contention that his name is Arnulfo rather than Arnold is similarly does not overcome the presumption of correctness pursuant to Evidence code section 647. Moreover, the Defendant did not seek relief until 5-18-26, more than 4 years after the entry of default judgment, and as a matter of law the motion is untimely under both statutes. The Defendant was personally served, and so CCP§473 (d) s not availing and the judgment should stand.

Legal Authorities and analysis. CCP§473.5 has strict time limits. A motion pursuant to this code section must be filed within a reasonable time, in no event exceeding the earlier of either two years after the entry of default judgment, or 180 days after the service of written notice of entry of judgement. (CCP§473.5 sub (a).). CCP §473(b) is also governed by strict time limits. While it permits a party to seek relief from a judgment taken against them through mistake, inadvertence, surprise, or excusable neglect, the motion must be made within a reasonable time, not exceeding six months after the entry of the judgment. Here, the default judgment was entered March 25, 2022. (See Plaintiff's MPA ex F.) The Defendant did not seek relief until May 18, 2026, more than four years later. Under either of these statutes the motion is untimely. The Defendant's assertion that he lacked notice of the action neither extends nor tolls the statutory time limits, nor under CCP§473(b) does it constitute excusable neglect where the record establishes valid service of process as set forth in the case file.

The request for relief pursuant to CCP§473(d) , claiming the judgment is void for lack of service challenges the facially valid proof of personal service executed by the registered process server (Aileen Garay) filed with the court January 31, 2022. (Plaintiff's MPA Ex D.) The Defendant was served January 21, 2022, at the address that Defendant admits has been his residence since 2009. (Defendant's Declaration in support; Ex D.) The registered process server's proof of service is entitled to a statutory presumption of correctness which the Defendant has not rebutted. Pursuant to Evidence Code section 647. The process server's proof of service constitutes a presumption affecting the burden of producing evidence as to the facts stated therein. The proof further states that the process server personally encountered the Defendant who confirmed his identity when the defendant stated his name and there was direct personal delivery of the Summons and Complaint. Nothing has been provided which rebuts this presumption.

It is not relevant that the Defendant resided outside the United States from December 2023 until May 2025, as service occurred January 21, 22, almost two years before his stated departure. The challenges to his estimated height description is not dispositive, as they are approximations when identity is confirmed through direct verbal acknowledgement and

personal delivery at the Defendant's residence. Moreover, the claim that his legal name is Arnulfo as opposed to Arnold doesn't establish a misidentification, the proof of service reflects that the Defendant personally identified himself to the process server at the time of service and personally accepted the delivery of the Summons and Complaint. (Plaintiff's MPA Ex D.) No evidence that another individual was server or that service was directed to the wrong person has been provided. The declaration is self-serving and unsupported by any corroborating evidence. A bare denial alone is insufficient to overcome the presumption created by the Proof of Service by a registered process server pursuant to Evidence Code section 647.

Proposed Ruling: Defendant's motion is denied.

**CL-24-00687                      Wells Fargo Bank, N.A. v. Victoria Voight                      6-26-2026**

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On calendar for Defendant's motion to set aside judgment entered pursuant to stipulation and order based on CCP§473.5

Petitioner: Jon Blanda, Edgar Lopez (Wells Fargo Bank, N.A.)

Defendant: Self Represented (Voight, Victoria)

The underlying case is for the collection of consumer debt. The case initially resolved pursuant to a stipulation signed by the parties in 2024, with dismissal pursuant to CCP§664.6, allowing the Plaintiff to vacate the dismissal if there was a failure to comply with the terms of the stipulation in the matter.

Argument: Defendant asserts she was never served properly in this matter, and she knew nothing of the matter until she received the notice in April regarding setting aside dismissal. She assumed the court would notify her if the Plaintiff's motion was granted. She didn't know of the judgment until mid-May. She reports that there are slight differences in height, weight, and estimated age of the person served and her own statistical information.

Opposition: Plaintiff notes that on 11-10-24 Defendant signed a stipulation for entry of judgment and installment payments with dismissal of action with consent to the court retaining jurisdiction pursuant to CCP§664.6. The Defendant then failed to make any payments under the stipulation on 1-15-25 Plaintiff sent Defendant written notice she was in default under the Stipulation and provided an additional 7 days to cure the default. The default was not cured. True and correct copy of that written notice is provided as EX 1 to Lopez Declaration. On 4-27-26 the court entered judgment pursuant to the terms of the Stipulation after considering Plaintiff's noticed motion pursuant to 664.6. The Defendant has

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failed to rebut the presumption of proper service pursuant to Ev. §647; the unsupported denial of service does not overcome the filed proof of service or the documentary record. The Evidence Code provides that the return of a registered process server's proof of service established a presumption affecting the burden of producing evidence. Where there is facially valid proof of service the facts stated in the return are presumed true unless the opposing party produced sufficient evidence to rebut that presumption. (EV §604; *Palm Property Investments LLC v. Yadegar* (2011) 194 Cal. App. 4<sup>th</sup> 1419, 1427-8.) Defendant admits she resided at the address where personal service was effected but contends she was not the person served citing slight differences in height and weight. The Defendant identifies no other person who allegedly accepted the documents at her home. Defendant's own subsequent conduct in signing the stipulation undermines her denial. Paragraph 17 of the stipulation expressly provides Defendant acknowledges receipt of the Summons and Complaint, and that her signing the Stipulation constitutes appearance in the action. Nor does the Defendant put forward any meritorious defenses or any basis to set aside the stipulation on equitable grounds. She does not deny she signed the stipulation, dispute the payment terms, or claim to have made the required payments. She does not deny she was sent the written notice of her default providing additional time to cure, or that the Judgment entered exceeded the amounts in the Stipulation.

**Legal Authority:**

Code of Civil Procedure section 473.5 allows for set aside of a default judgment for lack of service on the defendant. Essentially, a defendant who has never been served with process is not within the jurisdiction of the court. Thus, the judgment entered is not merely voidable, it is void because of the lack of personal jurisdiction. A void judgment may be attacked at any time.

**Analysis.** This is not a situation where Code of Civil Procedure section 473.5 would be applicable. While the Defendant argues that she was not properly served with process, her signature on the stipulation and order settling this case act as her acceptance of this court's jurisdiction over her in order to create a binding stipulation and order, as framed in the stipulation itself. While the Defendant argues that she is unfamiliar with the debt and doesn't have information about its legitimacy, again the stipulation and order that she signed in this matter belie such assertions. The language of the stipulation she signed indicates not only her acceptance of the court's jurisdiction but also the responsibility for the debt as well as the repayment terms specified in the stipulation. Further, she consented to the reservation of jurisdiction pursuant to Code of Civil Procedure section 664.6 allowing the court to vacate the prior dismissal and enter judgment in favor of the Plaintiff should she default on the terms of the stipulation.

Moreover, in Plaintiff's own declaration, she admits that she resides at 640 Duran Court, where personal service was effected. While the Defendant asserts she is in fact shorter than the height range given in the description and is presently heavier than the weight range provided, the differences are minor. Coupled with the Defendant's own signature on the stipulation acknowledging service of the summons and complaint at paragraph 17 of that document, the court is satisfied that the Defendant was within the court's jurisdiction. It also

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beggars understanding that the Defendant now asserts she did not understand that a lawsuit existed at the time she signed the stipulation, which is directly contradicted by the document and the circumstances surrounding it.

Proposed ruling:

Defendant's motion is denied.

**CL-25-00486                      JP Morgan Chase Bank, N.A. v. Maria Diaz De Leon    6-26-2026**

On calendar for Plaintiff's 5-1-2026 Motion for requests for admissions to be deemed admitted.

Plaintiff:            Alexander Balzer Carr (JPMorgan Chase Bank N.A.)

Defendant:        Self Represented (Diaz De Leon, Maria)

6-23-25 Complaint for \$5,723.58. This case involves efforts to collect on consumer debt. Plaintiff raises the following causes of action: 1) Breach of Contract

7-9-25 Defendant Answers, answer admits all of the statements in the complaint as true. She notes she is enrolled in a debt relief program, which did not take care of this credit card with the Plaintiff. She asserts she enrolled due to a financial hardship and could not continue paying the card.

Argument:

5-1-26 : Plaintiff's counsel states on 12-17-2025 that they served the Defendant with their requests for admission, set one, which were due 35 days thereafter. No responses have been received to date. Pursuant to CCP§2033.280 et seq, if a party propounding requests for admission has properly served those requests and the time to respond has expired without any response having been received, the court shall order that the requests be deemed admitted and documents requested to be admitted as genuine be deemed genuine.

5-1-25 Declaration of E. Oyama, counsel for Plaintiff in support. States that on 12-17-2025 the requests for admissions were served with a proof of service , appended as EX 1( ¶2.) Declarant further affirms that no responses have been received. (¶3.)

Legal Argument: Any party may obtain discovery by written request that any other party to the action admit the genuineness of specified documents, or the truth of specified matters of fact, opinion related to a fact, or application of law to a fact. (CCP§ 2033.010.) Similarly, a request for admissions may relate to a matter in controversy between the parties. (Id.) A

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party served with requests for admissions has 30 days to serve their response after being served with the requests. (CCP§2033.250.) If no response is received, the propounding party must bring a formal “deemed admitted motion” to have requests for admission which has received no timely response deemed admitted. (*Stover v. Bruntz* (2017) 12 Cal. App. 5<sup>th</sup> 19, 30; *St. Mary v. Sup. Ct.* (2014) 2223 Cal. App. 4<sup>th</sup> 76, 775-776.) Service of responses before the hearing defeats the motion, but imposing monetary sanctions remains mandatory. There is no meet and confer requirement for a motion to deem admitted under CCP§2033.280 as there is for a motion to compel further response. (*St. Mary v. Sup Ct., supra*, at 777-778.) Unless the judge determines that a responding party has served, before the hearing on the motion, a proposed response to the requests for admission in substantial compliance with CCP§2033.220 the judge must order the requests for admission deemed admitted. Such an order establishes, by judicial fiat, that a non-responding party has responded to the requests by admitting the truth of the matters contained in the requests. (*St. Mary v. Sup. Ct, supra*, at 776.) Moreover, pursuant to CCP§2033.420(a), a party may also request the court order that the genuineness of any documents and the truth of any matters specified in the request for admission be admitted.

Analysis: Plaintiff has provided declarations supporting that the Plaintiff served the requests for admissions and request to establish the genuineness of documents on or about 12-17-2025. The time for responding to these requests has elapsed without any service of code compliant responses. As is required, the Plaintiff now moves the court to deem admitted the matters to be deemed admitted; such motion is proper and provides the court the needed factual basis for the request.

Proposed ruling: The Plaintiff’s motion is granted as prayed

**END OF TENTATIVE RULING**