



# Superior Court of California County of San Benito

## Tentative Decisions for March 2, 2026

**Courtroom #1: Judge J. Omar Rodriguez**

**CU-24-00147      Espinola, Lazaro vs. Van, Andy Quoc**

Defendant Joe Pan's ("Defendant") Motion for Summary Judgment or, alternatively, Summary for Adjudication ("Motion") is DENIED.

For purposes of motions for summary judgment and summary adjudication, a defendant has met his or her burden of showing that a cause of action has no merit if the party has shown that one or more elements of the cause of action, even if not separately pleaded, cannot be established, or that there is a complete defense to the cause of action. (Code Civ. Proc. §437c.) The moving party bears an initial burden of production to make a prima facie showing of the nonexistence of any triable issue of material facts. (*Aguilar v. Atlantic Richfield Co.* (2001) 25 Cal.4th 826, 850.) A defendant moving for summary judgment carries the burden of persuasion and/or production by presenting evidence that would require such a trier of fact not to find any underlying material fact more likely than not. (*Ibid.*) In the alternative, the defendant may present evidence showing that the plaintiff did not possess, and could not reasonably obtain, needed evidence. (*Id.* at 854-55.)

Finally, a party moving for summary judgment or summary adjudication must support the motion with a separate statement that sets forth plainly and concisely all material facts that the moving party contends are undisputed, and each of these material facts must be followed by a reference to the supporting evidence. (Code Civ. Proc. §437c(b)(1), (f)(2).) A separate statement is required to afford due process to the opposing party and to permit the judge to

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expeditiously review the motion for summary judgment or summary adjudication to determine quickly and efficiently whether material facts are disputed. (*Parkview Villas Ass'n. Inc. v. State Farm Fire & Cas. Co.* (2005) 133 Cal.App.4th 1197, 1210.) Only facts and evidence the judge may consider in determining whether summary judgment or summary adjudication should be granted are those set forth in the separate statement, which is of particular importance in this instance. (See *Scripps Clinic v. Superior Court* (2003) 108 Cal.App.4th 917, 929; *Rodger H. Proulx & Co. v. Crest-Liners, Inc.* (2002) 98 Cal.App.4th 182, 198.)

Because a summary judgment motion is directed to the issues framed by the pleadings, the burden of a defendant moving for summary judgment only requires that the defendant negate plaintiff's theories of liability as alleged in the complaint. (*Leyva vs. Garcia* (2018) 20 Cal.App.5th 1095, 1102.) A defendant satisfies the burden of production by presenting evidence that would prevent a reasonable trier of fact from finding any underlying material fact more likely than not. (*Aguilar v. Atlantic Richfield Co.*, supra, 25 Cal.4th 854-855, n.23.) When the evidence submitted by a moving defendant does not support judgment in the defendant's favor, a judge must deny the motion without looking at the opposing evidence, if any, submitted by plaintiff. (*Zoran Corp. vs. Chen* (2010) 185 Cal.App.4th 799, 805.) "When the burden of proof at trial will be on the plaintiff by a preponderance of the evidence, the moving defendant must present evidence that would preclude a reasonable trier of fact from finding that it was more likely than not that the material fact was true... or the defendant must establish that an element of the claim cannot be established, by presenting evidence that the plaintiff does not possess and cannot reasonably obtain, needed evidence to support a necessary element of the cause of action." (*Ibid.*, quotation omitted, citing *Kahn v. East Side Union High School Dist.* (2003) 31 Cal.4th 990, 1003, *Aguilar*, supra, 25 Cal.4th at p. 854, *Guz v. Bechtel National, Inc.* (2000) 24 Cal.4th 317, 334.) "If the defendant fails to meet this initial burden, it is unnecessary to examine the plaintiff's opposing evidence; the motion must be denied." (*Ibid.*)

"A party may move for summary adjudication as to one or more causes of action within an action, one or more affirmative defenses, one or more claims for damages, or one or more issues of duty, if the party contends that the cause of action has no merit, that there is no affirmative defense to the cause of action, that there is no merit to an affirmative defense as to

any cause of action, that there is no merit to a claim for damages, as specified in Section 3294 of the Civil Code, or that one or more defendants either owed or did not owe a duty to the plaintiff or plaintiffs.” (Code Civ. Proc. §437c(f)(1); *United Community Church v. Garcin* (1991) 231 Cal.App.3d 327, 337; *Truong v. Glasser* (2010) 181 Cal.App.4th 102, 118.)

Defendant contends, and Plaintiff concedes, that the first three causes of action in the First Amended Complaint (“FAC”) are not asserted against Defendant. Therefore, the Motion is moot as to those three causes of action.

As to the Fourth Cause of Action – Fraudulent Transfer, Defendant’s Separate Statement of Undisputed Material Facts (“SSUMF”) is defective as it does not comply with California Rules of Court Rule 3.1350(b) and (d)(2), which require that each undisputed material fact be tied to the specific cause of action, affirmative defense, or claim for damages stated in the Notice of Motion, and be supported by specific evidence including exhibit, page, and line numbers. Here, the SSUMF fails to separately identify the cause of action and each material fact claimed to be without dispute with respect to the cause of action.

Additionally, a triable issue of material fact exists as the Fourth Cause of Action. “Several California cases have held that a party may be liable for fraudulent transfer as a coconspirator or aider and abettor.” (*Optronic Technologies, Inc. v. Celestron Acquisition, LLC* (2025) 108 Cal.App.5th 770, 784-785 citing *Aghaian v. Minassian* (2020) 59 Cal.App.5th 447, 459; *Berger v. Varum* (2019) 35 Cal.App.5th 1013, 1025–1026; *Filip v. Bucurenciu* (2005) 129 Cal.App.4th 825, 837–838.) “(A) debtor and those who conspire with him to conceal his assets for the purpose of defrauding creditors are guilty of committing a tort and each is liable in damages.” (*Taylor v. S & M Lamp Co.* (1961) 190 Cal.App.2d 700, 706.) Here, although there is no evidence that Defendant was a debtor, there is a dispute of fact as to whether Defendant conspired with Van to transfer ownership in the subject property without consideration and whether it was made with the intent to defraud creditors. (See Plaintiff’s Compendium, Exhibit “A”, ¶2, Exhibit “A”; Compendium, Exhibit “A”, ¶4, Exhibit “B”; Compendium, Exhibit “C”.)

**CU-25-00111                    Gabriel v. Level 1 Private Security, LLC, et al.**

The Demurrer is denied without prejudice as the Defendant, Level 1 Private Security, LLC, failed to file a proof of service indicating proper service and notice of the hearing.

In light of the newly added defendants, the Case Management Conference is continued to June 1, 2026 at 10:30 a.m. Plaintiff to provide notice of this hearing.

**CU-25-00130                    Bettencourt, et al. vs. Gambetta, et al.**

Defendant Rickey Vincent Gambetta’s (“Defendant”) Motion for Summary Adjudication as to the First Cause of Action for Judicial Foreclosure is GRANTED. The requests for judicial notice are also GRANTED.

For purposes of motions for summary judgment and summary adjudication, a defendant has met his or her burden of showing that a cause of action has no merit if the party has shown that one or more elements of the cause of action, even if not separately pleaded, cannot be established, or that there is a complete defense to the cause of action. (Code Civ. Proc. §437c.) The moving party bears an initial burden of production to make a prima facie showing of the nonexistence of any triable issue of material facts. (*Aguilar v. Atlantic Richfield Co.* (2001) 25 Cal.4th 826, 850.) A defendant moving for summary judgment carries the burden of persuasion and/or production by presenting evidence that would require such a trier of fact not to find any underlying material fact more likely than not. (*Ibid.*) In the alternative, the defendant may present evidence showing that the plaintiff did not possess, and could not reasonably obtain, needed evidence. (*Id.* at 854-55.)

Finally, a party moving for summary judgment or summary adjudication must support the motion with a separate statement that sets forth plainly and concisely all material facts that the moving party contends are undisputed, and each of these material facts must be followed by a reference to the supporting evidence. (Code Civ. Proc. §437c(b)(1), (f)(2).) A separate statement is required to afford due process to the opposing party and to permit the judge to expeditiously review the motion for summary judgment or summary adjudication to determine quickly and efficiently whether material facts are disputed. (*Parkview Villas Ass’n. Inc. v. State Farm Fire & Cas. Co.* (2005) 133 Cal.App.4th 1197, 1210.) Only facts and evidence the judge may consider in determining whether summary judgment or summary adjudication

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should be granted are those set forth in the separate statement, which is of particular importance in this instance. (See *Scripps Clinic v. Superior Court* (2003) 108 Cal.App.4th 917, 929; *Rodger H. Proulx & Co. v. Crest-Liners, Inc.* (2002) 98 Cal.App.4th 182, 198.)

Because a summary judgment motion is directed to the issues framed by the pleadings, the burden of a defendant moving for summary judgment only requires that the defendant negate plaintiff's theories of liability as alleged in the complaint. (*Leyva vs. Garcia* (2018) 20 Cal.App.5th 1095, 1102.) A defendant satisfies the burden of production by presenting evidence that would prevent a reasonable trier of fact from finding any underlying material fact more likely than not. (*Aguilar v. Atlantic Richfield Co.*, supra, 25 Cal.4th 854-855, n.23.) When the evidence submitted by a moving defendant does not support judgment in the defendant's favor, a judge must deny the motion without looking at the opposing evidence, if any, submitted by plaintiff. (*Zoran Corp. vs. Chen* (2010) 185 Cal.App.4th 799, 805.) "When the burden of proof at trial will be on the plaintiff by a preponderance of the evidence, the moving defendant must present evidence that would preclude a reasonable trier of fact from finding that it was more likely than not that the material fact was true... or the defendant must establish that an element of the claim cannot be established, by presenting evidence that the plaintiff does not possess and cannot reasonably obtain, needed evidence to support a necessary element of the cause of action." (*Ibid.*, quotation omitted, citing *Kahn v. East Side Union High School Dist.* (2003) 31 Cal.4th 990, 1003, *Aguilar*, supra, 25 Cal.4th at p. 854, *Guz v. Bechtel National, Inc.* (2000) 24 Cal.4th 317, 334.) "If the defendant fails to meet this initial burden, it is unnecessary to examine the plaintiff's opposing evidence; the motion must be denied." (*Ibid.*)

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Here, Defendant argues that Neva Gambetta (“Neva”) and Defendant owned the subject property equally via joint tenancy, which was never severed. Defendant also argues that the Deed of Trust signed by Neva did not sever the joint tenancy and the Deed of Trust was extinguished on her death on July 31, 2024. Therefore, as a result of Neva’s death, as the sole surviving joint tenant, Defendant holds title to the subject property free of the Deed of Trust.

A joint interest is one owned by two or more persons in equal shares by title created by a single transfer, when expressly declared in the transfer to be a joint tenancy. (Cal. Civ. Code §683.) “For the creation of a joint tenancy, four unities are required, namely, unity of interest, unity of title, unity of time, and unity of possession, and the absence of any one of these elements ordinarily will change the nature of the estate.” (Hammond v. McArthur (1947) 30 Cal.2d 512, 514.) “A joint tenant may sever a joint tenancy in real property as to the joint tenant's interest without the joinder or consent of the other joint tenants by any of the following means:(1) Execution and delivery of a deed that conveys legal title to the joint tenant's interest to a third person, whether or not pursuant to an agreement that requires the third person to reconvey legal title to the joint tenant. (2) Execution of a written instrument that evidences the intent to sever the joint tenancy, including a deed that names the joint tenant as transferee, or of a written declaration that, as to the interest of the joint tenant, the joint tenancy is severed.” (Cal. Civ. Code §683.2.)

Here, it is undisputed that on October 13, 1987, Defendant and Neva transferred title of the subject property, 1060 Sunset Drive, Hollister, California, to themselves in joint tenancy. The document which created the joint tenancy conveyed equal ownership to the same people at the same time who had the same rights to possess the property. It is also undisputed that Defendant and Neva did not sever the joint tenancy. (See Separate Statement of Material Fact, Fact No. 2.) As a result, the Motion for Summary Adjudication is granted as to the First Cause of Action.

Defendant's unopposed Motion for Judgment on the Pleadings is GRANTED.

A motion for judgment on the pleadings may be granted when the complaint fails to state facts sufficient to constitute a cause of action. (Code of Civ. Proc. §438(c)(1)(B)(ii).) It serves a function similar to that of demurrer as it tests the legal sufficiency of the complaint alone, accepting all material allegations as true, but as with demurrer, allows the consideration of matters subject to judicial notice. (*Ludgate Ins. Co. v. Lockheed Martin Corp.* (2000) 82 Cal. App. 4th 592, 602.) Recorded documents are subject to judicial notice pursuant to Evidence Code section 452 subsections (c) and (h). They are official acts and are not reasonably subject to dispute. (*Fontenot v. Wells Fargo Bank, N.A.* (2011) 198 Cal. App. 4th 256, 264-265., disapproved on other grounds in *Yvanova v. New Century Mtg. Corp.* (2016) 62 Cal. 4th 919.)

Defendant argues that the complaint is ambiguous, uncertain and fails to state a coherent claim against the Defendant. (Code of Civ. Proc §430.10(f).) This Court agrees. The Complaint asks for proof of transfers and other matters but does not assert that the loan itself is defective. It does not state that there has been any adverse action taken by Defendant, including a default, or foreclosure, which is a requirement. (*West v. JP Morgan Chase Bank, N.A.*, 214 Cal. App. 4th 780, 892.) Any allegations regarding homeowner's association disputes have no bearing on the question of title, nor are the allegations as to whether work was completed and paid by State Farm Insurance. The complaint fails to allege any specific wrongful acts by Defendant.

Plaintiff's complaint admits that the loan exists but fails to name the beneficiary of the loan, an indispensable party. (Code of Civ. Proc. §379.) Plaintiff does not allege tender of payment in full, which is a requirement to quiet title against a deed of trust. (*Shimpones v. Stickney* (1934) 219 Cal. 637, 649.) Finally, a quiet title action requires a verified complaint describing the property, Plaintiff's title, the adverse claims, and knowledge of when those claims arose. (Code of Civ. Proc §761.020.) The complaint is unverified, which constitutes a fatal defect. (*Kroeker v. Hurlbert* (1940) 38 Cal. App. 2nd 261, 262.)

As a result, Defendant's motion is granted. Judgment for the Defendant to be entered, without leave to amend as it appears that the Plaintiff will be unable to frame the complaint in

any manner which would save it from the defects noted herein. The Case Management Conference and Order to Show Cause are vacated.

**CU-25-00186            Hazleton vs. Sierra Golf Operations LLC**

The Court has read and considered Defendant's Case Management Conference Statement and continues the Case Management Conference to June 8, 2026 at 10:30 a.m. Plaintiff to provide notice of the hearing.

**CU-25-00290            Villa vs. C&W Facility Services, Inc., et al.**

The Case Management Conference is vacated due to the fact the case has been removed to the federal district court.

**CU-25-00292            Ally Bank vs. Amezcua, Jose Humberto et al**

The Court has read and considered Plaintiff's Case Management Conference Statement and continues the Case Management Conference to June 8, 2026 at 10:30 a.m. Plaintiff to provide notice of the hearing.

**PR-22-00091            Estate of Casimiro Amezcua**

The Motions for Relief under Code of Civil Procedure Sections 473 and 1008, filed by Veronica Amezcua, are DENIED.

California Code of Civil Procedure section 473(b) allows for a party to be relieved of a judgment, dismissal, order or other proceeding taken against him or her through mistake, inadvertence, surprise or neglect. Here, there are insufficient facts that would permit this Court to conclude that the order resulted from counsel's mistake, inadvertence, surprise or neglect. The declaration in support of the motion indicates that counsel, Mr. Liem, never received notice of the hearing, but the opposition includes an email whereby Mr. Liem forwarded the stipulation and order continuing the hearing to a new date to opposing counsel. No further explanation is provided by the moving party.

The Motion for Reconsideration is also denied. An order may be set aside pursuant to Code of Civil Procedure section 1008 based upon new or different facts or law. The moving

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party must also provide a satisfactory explanation for its failure to present this information earlier. (*Baldwin v. Home Savings of America* (1997) 59 Cal.App.4th 1192, 1198.) Here, the moving party alleges that Amalia never divorced her prior husband, and that Amalia Amezcua filed documents in Mexico making a spousal property claim against the estate of that husband. (Liem Decl. ¶6.) However, the declaration fails to provide any explanation as to why the facts were not discovered earlier and whether they could have been discovered earlier.

**PR-25-00005                    In the Matter of Frank Covarrubias**

The Court has read and considered the Status Report filed by Frank Covarrubias and vacates the review hearing as there are no objections to Respondent's Third and Final Account and Report of Trustee.

**PR-25-00078                    In re Estate of Richard Everly**

The Court has read and considered Petitioner's Status Report and continues the Status Conference to May 11, 2026 at 10:30 a.m.

**END OF TENTATIVE DECISIONS**