

Superior Court of California County of San Benito



Tarry Singh
Court Executive Officer

Tentative Decisions for March 27, 2023

Courtroom #1: Judge J. Omar Rodriguez

CU-22-00234 Jackson Pryor Group v. Lima, et al.

This court is staying the present action in light of the current appeal before the Ninth Circuit.

The court shares Defendants' concern that, if the Ninth Circuit overturns the District Court's Order to Dismiss, there is a very substantial likelihood of putting the state and federal courts at odds as to the effect of the District Court's November 10, 2022 Order. Although not specifically requested, this court is staying this action pending the appeal of the District Court's Order regarding the Dismissal of Case No. 22-cv-00111-SVK. (*See Benitez v. Williams* (2013) 219 Cal.App.4th 270, 276, which authorizes the California court to stay the state court action when a federal action has been filed covering the same subject matter as is involved in a California action.)

The Requests for Judicial Notice are all granted.

The Case Management Conference is continued to September 27, 2023 at 10:30 a.m.

CU-21-00060 Gutierrez v. General Motors, LLC

Defendant's Motion to be relieved from Waiver of Written Discovery Objections is GRANTED. (Cal. Civ. Proc. §2031.300.) Generally, responses to a request for production of documents are due thirty days after the date of service of the request. This time may be extended by two court days for service by electronic mail, as was the case in the underlying

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discovery request. (Cal. Civ. Proc. §§2031.210, et seq.; 1010.6 (a) (4) (B).) The failure to timely serve responses to discovery waives all objections, including those based on attorney-client privilege or attorney work-product doctrine. The court may, on motion relieve a party of this waiver if the party subsequently serves a response in substantial compliance with the statute and that the failure to timely serve a response was the result of mistake, inadvertence, or excusable neglect (Cal. Civ. Proc. §2031.300 (a)(1)-(2).) Inadvertence is defined as a lack of attentiveness, heedfulness, or inattention. (*Alderman, v. Jacobs* (1954) 128 Cal. App. 2nd 273,276; *Baratti v. Baratti* (1952) 109 Cal. App. 2nd 917,921.) Similarly, excusable neglect has been defined as neglect which “might have been the act of a reasonably prudent person under the same circumstances.” (*Id.*) The code by its own terms contemplates a belated response to be within the ambit of substantial compliance. (Cal. Civ. Proc. §2031.300.)

Here, the explanation provided by Defendant’s counsel makes clear that the failure to timely serve a response to the requested discovery rests with them by failing to follow through and ensure that the prepared responses were actually served on time.

PR-19-00064 In re Nellie R. Hart Revocable Trust

The status conference is continued to June 28, 2023 at 10:30am. The trial set for June 26, 2023 is hereby vacated.

PR-23-00010 Estate of Sharon Alice Trafford

The Petition is APPROVED as requested. Bond is set at \$500,700.00. Lucia Areias is appointed as referee. Full authority is granted to administer the estate under the Independent Administration of Estates Act.

Petitioner is to file an Inventory and Appraisal within four months of issuance of letters (Prob. Code section 8800(b)) and either a petition for an order for final distribution of the estate or a report of status of administration within the timeframe set out in Probate Code section 12200.

The matter is set for hearing on September 27, 2023 at 10:30 a.m. for status of estate or final account and distribution. No appearances at the hearing will be required if the court

determines that administration of the estate is timely proceeding, or good cause is shown why more time is required.

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