



Superior Court of California County of San Benito

Tentative Decisions for March 9, 2026

Courtroom #1: Judge J. Omar Rodriguez

CU-22-00233 Trinity Financial Services vs. Gutierrez, Isaias Rico

Defendant Isaias Gutierrez's Motion for Summary Judgment is DENIED. Defendant's objections to Plaintiff's request for judicial notice are overruled. The requests filed by both parties for judicial notice are 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

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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 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.*)

First, Defendant's Separate Statement does not identify the issues raised on the Motion, or organize the asserted undisputed facts by issue. Defendant must identify the issues raised in the Motion and each "supporting material fact claimed to be without dispute with

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respect the cause of action, claim for damages, issue of duty, or affirmative defense that is subject to the motion.” Cal Rules of Court, Rule 3.1350(d). Defendant fails to do so. The separate statement of undisputed material facts filed in support of the Motion identifies no causes of action and no issues raised in the Motion. Therefore, the Motion fails.

Second, Defendant argues that the recitals in the reconveyance are conclusive and the reconveyance is therefore final. (MSJ 11:5-11.) A reconveyance or discharge of a lien provides “presumptive evidence” that the underlying debt has been satisfied and the lien released; such evidence is not conclusive. (*White v. Stevenson* (1904) 144 Cal. 104, 109.) A lien survives if evidence shows the debt was never actually paid, even if a release was entered or executed by mistake. (*Id.* at 109-110.) The burden of proving payment or discharge rests on the party asserting it, and neither a signed release nor a receipt in full is sufficient to prove satisfaction without evidence that the debt has been paid. (*Palmer v. Emanuel* (1926) 77 Cal.App. 766, 770.) Here, it is a disputed fact whether Defendant satisfied the obligation secured by the Deed of Trust. (Separate Statement of Material Fact (“SSUMF”) No. 4.) Related, Plaintiff’s Fourth Cause of Action for Breach of Contract survives because of this disputed fact as one element of the cause of action is whether defendant breached the contract. (See *CDF Firefighters v. Maldonado* (2008) 158 Cal.App.4th 1226, 1239.) Additionally, the reconveyance was not recorded or even provided to Defendant. There is no intent evidenced by recording, service, or presentment of the reconveyance that would even suggest that the Loan was satisfied or released. (SSUFM No. 9.)

As to Plaintiff’s First Cause of Action for Declaratory Relief, Plaintiff seeks a judicial determination as to its rights with respect to the Property as a result of the deed of trust that was signed, but not recorded. Plaintiff contends there is an actual controversy whether there is a lien securing repayment of the subject loan against the Property. To qualify for declaratory relief under Code of Civil Procedure section 1060, a plaintiff must satisfy two essential elements: “(1) a proper subject of declaratory relief, and (2) an actual controversy involving justiciable questions relating to the rights or obligations of a party.” (*Lee v. Silveira* (2016) 6 Cal.App.5th 527, 546.) Defendant fails to address this cause of action in its Motion. Defendant does not seek summary adjudication. As Defendant does not seek anything less

than full summary judgment, this alone is a basis to deny the entire Motion. (*All Towing Services v. City of Orange* (2013) 220 Cal.App.4th 946, 954.)

Finally, the Motion is denied pursuant to Code of Civil Procedure section 473c(h), which states that the court shall deny the motion (or continue the hearing) if it appears from affidavits submitted in opposition to the motion for summary judgment that facts essential to justify opposition may exist, but cannot, for reasons stated, be presented. Here, Plaintiff has stated that it attempted to depose Defendant who is claiming that he did not execute the Note and Deed of Trust, that he never received the proceeds, and/or that he satisfied the amounts owed. In response to the notice of deposition, Defendant filed a motion to quash and did not make himself available for the deposition. As a result, the requirements of Code of Civil Procedure section 473c(h) are met and the motion is denied.

Defendant's Request to Expunge the Lis Pendens is improper in a motion for summary judgment. A motion for summary judgment is limited to the issues raised by the pleadings. (*FPI Dev. Inc. v. Nakashima* (1991) 231 Cal.App.3d 367, 381-382). As such, the pleadings define the scope of a motion for summary judgment. (*Lewis v. Chevron* (2004) 119 Cal.App.4th 690, 694). Therefore, it is improper to include additional relief, beyond that requested in the pleadings, when seeking summary judgment.

Plaintiff's Objections as to the Declaration of Moss are sustained in their entirety.

Defendant's Objections as to the Declaration of Cahill are sustained as to Paragraphs 2, 3, 4, 10, 11, and 12.

Defendant's Objections as to the Declaration of Vo are overruled.

CU-23-00183 Natmar,L.P., et al. vs. City of Hollister, et al

Defendants' Demurrer is SUSTAINED with leave to amend the First Cause of Action. Defendants' Request for Judicial Notice is granted. The Case Management Conference is continued to June 8, 2026 at 10:30 a.m. As to the Second, Third and Fourth Causes of Action, Petitioner states that they elect not to pursue those causes of action at this time. (Opp. 7:21-25.) Therefore, the Court will dismiss the Second, Third, and Fourth Causes of Action without prejudice and will not be considered in this decision.

A demurrer generally serves to test the legal sufficiency of the complaint's factual allegations. (*Genis v. Schainbaum* (2021) 66 Cal. App. 5th 1007, 1014.) It does not test the factual accuracy or truth of the facts alleged. The court must assume the truth of all properly pled allegations. The process of a demurrer does not serve to test the merits of the Plaintiff's case. (*Tenet Health System Desert Inc. v. Blue Cross of CA.* (2016) 245 Cal App 4th 821, 834.) Because a demurrer only challenges the defects on the face of the complaint, it can only refer to matters outside the pleadings which are subject to judicial notice. (*Id.* at 831.) For demurrer, a judge must treat the demurrer as an admission of all material facts properly pled in the challenged pleading or that reasonably rise by implication, however improbable they are. (*Collins v. Thurmond* (2019) 41 Cal. App 5th 879, 894.) As such, "the plaintiff must show the complaint alleges facts sufficient to establish every element of each cause of action." (*Rakestraw v. Cal. Physicians' Serv.* (200) 81 Cal.App.4th 39, 43.) "If the complaint fails to plead, or if the defendant negates, any essential element of a particular cause of action," the demurrer should be sustained. (*Id.*)

Generally, leave to amend is granted liberally. (*Foroudi v. Aerospace Corp.* (2020) 57 Cal. App. 5th 992, 1000.) Leave to amend may be denied where in all probability that no amount of amendment will cure the defects, rendering the process futile. (*Id.*) The burden is on the plaintiff to show in what manner the plaintiff can amend the complaint and how the amendment would change the legal effect of his pleading. (*Goodman v. Kennedy* (1976) 18 Cal.3d. 335 349.)

As to the First Cause of Action for Ordinary Mandamus, in order to state a cause of action for ordinary mandamus pursuant to Code of Civil Procedure section 1085, petitioner must plead: (1) a clear, present and usually ministerial duty upon the part of the respondent; and (2) a clear, present and beneficial right in the petitioner to the performance of that duty." (*Loder v. Municipal Court* (1976) 17 Cal.3d 859, 863.) "It is uniformly held that a writ of mandamus will not issue to compel the performance of acts on the part of officers which they are not presently required to execute, but, on the contrary, which they may merely have to do at some time in the future." (*McMullen v. Glenn-Colusa Irrigation Dist.* (1936) 17 Cal.App.2d 696, 699.) To constitute a ministerial duty in relation to which mandamus

relief may be granted, the duty must be "one which is required by statute." (*County of Los Angeles v. City of Los Angeles* (2013) 214 Cal.App.4th 643, 653.)

Here, Petitioners' First Cause of Action seeks a writ of mandate based on duties premised on Government Code section 66454. Section 66454 states, "(a)ny subdivider may file with a city the tentative map of a proposed subdivision of unincorporated territory adjacent to such city." Here, the allegations are that Defendants refused to allow Petitioners to file the tentative map of a proposed subdivision. The statute allows the city to act upon the proposed maps in its discretion, but the FAC has alleged a ministerial duty that Defendants failed to perform. However, it is this last issue that serves as the basis for this Court to grant the demurrer with leave to amend. "The granting of a writ of mandate is discretionary and it will be granted where necessary to protect a substantial right and only when it is shown that some substantial damage will be suffered by the petitioner if said writ is denied." (*Ault v. Council of San Rafael* (1941) 17 Cal.2d 415, 417.) Here, since the decision to act on the VTM was within the discretion of Defendants, the FAC has not adequately described facts to support whether there is a substantial right and whether substantial damage would be suffered by Petitioners because of the fact that the City failed to allow Petitioners to file the VTM.

CU-23-00238 Heron, Kaylee et al vs. W. Ranch, LLC et al

The Court lacks jurisdiction on W Ranch's Motion for Attorney's Fees as Cupps' appeal triggers the automatic stay on the merits upon the causes of action affected by the motion. "(S)ection 916, subdivision (a) stays all further trial court proceedings upon the matters embraced in or affected by the appeal. In determining whether a proceeding is embraced in or affected by the appeal, we must consider the appeal and its possible outcomes in relation to the proceeding and its possible results. Whether a matter is embraced in or affected by a judgment [or order] within the meaning of section 916 depends on whether postjudgment or postorder proceedings on the matter would have any effect on the effectiveness of the appeal." (*Varian Medical Systems, Inc. v. Delfino* (2005) 35 Cal.4th 180, 189, citations omitted.) Here, Defendants Ryan Wichkahn, Stefanie Wickham and W Ranch, LLC are seeking attorney's fees based on their successful anti-SLAPP special motion to strike, which is currently appealed.

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The Case Management Conference is continued to September 14, 2026 at 10:30 a.m.

CU-25-00307 Olivares, Ava et al vs. Zapata, Aubreelena et al

The Applications for the appointment of Guardian ad litem are GRANTED as requested.

PR-25-00129 Estate of Kalie F. Payne aka Kalie Faye Payne (In re the Matter of Payne, Kail Faye)

The Petition is APPROVED as requested. Bond is set at \$0. Lucia Areias is appointed as referee. Limited 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 14, 2026 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.

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*

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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 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.)

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.

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-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