



Superior Court of California County of San Benito

Tentative Decisions for June 20, 2025

Courtroom #2: Judge Pro Tempore Page Galloway

CL-24-00723 Yvonne Espinoza, et al., v. Donald John Smolka 6-20-25

On calendar for Plaintiff's Counsel's 5-27-25 motion to be relieved as to Yvonne Espinoza

Plaintiffs: Chase Graves (Yvonne Espinoza; Ricardo Torres)

Defendant: Christine O. Breen, Paul W. Breen (Donald John Smolka)

The Underlying case is an unlawful detainer decided in favor of Plaintiffs after a court trial. Subsequently, Defendant sought orders to set aside the Judgment, which were denied. The Defendant appealed the decision to the Sixth District Court of Appeals (H053124). Defendant also filed a complaint in case CU-25-00017 alleging breach of contract, fraud, financial elder abuse, and quiet title referencing the same property at issue in this case, alleging that the Plaintiffs (Ms. Espinoza and Mr. Torres) had defrauded him of the property commonly known as 965 Chittenden Road, San Juan Bautista.

Defendants then sought a stay of the judgment pending appeal. The court granted the stay pending appeal, and on 5-9-25 ordered Defendant to post bond of \$95,000.00 within thirty days of the hearing. Defendant was also ordered to continue making the monthly mortgage payment of \$1,800.00 per month with the impound amount of \$11,000.00 to go toward property taxes and homeowners' insurance. The Defendant was ordered not to prevent Plaintiffs from conducting their business on the property, nor to prevent the Plaintiffs from caring for their animals currently on the property. The parties were ordered to remain in compliance with the Civil Harassment Restraining Orders in place.

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***Please contact Judicial Courtroom Assistant, Adriana Ramirez, at
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any objections or concerns**

On 5-14-25, on its own motion, the Sixth District Court of Appeal ordered case H053124 transferred forthwith to the appellate division of the San Benito County Superior Court, as the appeal was taken from a judgment and orders issued in a limited jurisdiction civil action. (CCP§904.2)

6-16-25 Matter was heard in Department 1 for an Ex Parte on shortened time for Defendant's request to reduce bond or undertaking. The motion for order waiving or reducing bond is scheduled for hearing on 6-30-25 at 10:30 a.m. in dept 1. Defendant's motion to be filed on or before 6-18-25; Plaintiff's opposition to be filed on or before 6-25-25.

On 5-27-25 Plaintiff's counsel filed a motion to be relieved as counsel as to Yvonne Espinoza. The specific facts giving rise to the motion are confidential in nature; and pursuant to Business and Professions Code section 6068(e), Rule 1.6 of the California Rules of Professional Conduct, and by Evidence Code sections 950, et seq. (Attorney-Client Privilege.) Counsel avers that if the court desires further information to determine the good faith basis for the motion, an in-camera hearing is requested outside the presence of other parties to allow facts demonstrating good cause for withdrawal to be shown. (*Manfredi & Levine v. Sup. Ct.* (1998) 66 Cal. App. 4th 1128, 1136-1137.) Counsel graves states simply that there has been a breakdown in the attorney client relationship such that ongoing representation is no longer possible. Proper notice is in file, a proposed order is in file, and the address of the party was confirmed in conversation between counsel and the client (Ms. Espinoza).

The motion has been timely and properly served and is unopposed.

Legal Authority: Pursuant to CCP §284 the attorney in an action may be changed at any time before or after judgment or final determination "as follows 2. Upon the order of the court, upon the application of either client or attorney, after notice from one to the other." The procedure to be relieved as counsel is governed by California rule of Court rule 3.1362. The rule requires proper notice directed to the client using the proper forms. The motion need not have a memorandum appended but must be accompanied by a declaration in support of the motion, stating "in general terms and without compromising the confidentiality of the attorney-client relationship why a motion under Code of Civil Procedure Section 284(2) is brought." Rather than filing consent under CCP §284(1).

Analysis: Plaintiff's counsel has complied with the requirements of both the Code of Civil Procedure and the Rules of Court in presenting this motion as to Ms. Espinoza. It appears that the attorney-client communication is necessary for proper representation is not possible under the circumstances described. The motion will not prejudice either party, given that no motions or trials are currently pending before the court. The motion is unopposed.

Proposed Ruling: The Defendant's Counsel's motion is granted as prayed.

END OF TENTATIVE RULING

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