



# Superior Court of California County of San Benito

## **Tentative Decisions for October 6, 2025**

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

**CU-20-00062      Flores Avena vs. Pacific Scientific Energetic Co**

The Final Accounting Hearing is off calendar. No appearances are necessary.

**CU-21-00204      Western Resources Legal Center vs. San Benito County**

The Court has read and considered the Case Management Conference Statements. In light of the representations made therein, the Case Management Conference is continued to December 15, 2025 at 10:30 a.m.

**CU-24-00131      In the Matter of Maria Cynthia Orozco**

The Court has read and considered the Case Management Conference Statements. In light of the representations made therein, the Case Management Conference is continued to December 15, 2025 at 10:30 a.m.

**CU-25-00006      City of San Juan Bautista vs. Ow**

Plaintiff City of San Juan Bautista (“City” or “Plaintiff”) motions for appointment of a receiver to oversee the abatement of the nuisances and other conditions on real property commonly known as 1003 Second Street in San Juan Bautista, Assessor’s Parcel No. 002-020-010 (“Property”) pursuant to California Code of Civil Procedure (“CCP”) § 564-570 and California Health and Safety Code (“HSC”) § 17980.7, and an injunction to allow the City

and appointed receiver, and their agents, access to the Property to assess and remediate the nuisance and environmental harm thereon are GRANTED.

Injunctive relief is appropriate when necessary to prevent the continuance of an act that would produce waste, greatly or irreparably injure a party in the action, violate the rights of another party, or when pecuniary compensation would not afford adequate relief. (CCP 526(a)(2)-(3).) The Court must weigh two interrelated factors: (i) the likelihood that the moving party will ultimately prevail on the merits and (2) the relative interim harm to the parties from issuance or non-issuance of the injunction. (*Butt v. State* (1992) 4 Cal.4th 668, 677–678; *Whyte v. Schlage Lock Co.* (2002) 101 Cal.App.4th 1443, 1449; *ReadyLink Healthcare v. Cotton* (2005) 126 Cal.App.4th 1006, 1016.) Plaintiff must show that the remedy at law is inadequate, irreparable harm will result, Plaintiff will probably prevail on the merits of her action, and equities weigh in favor of injunction. (*White v. Davis* (2003) 30 Cal.4th 528, 554; *O’Connell v. Superior Court* (2006) 141 Cal.App.4th 1452, 1481.) To hold that party is likely to prevail the court must find that there is reasonable probability that the moving party will be successful, the moving party need not win the case outright in order to obtain the injunction. (*Continental Baking Co v. Katz* (1968) 68 Cal 2d 512, 528.)

Here, the City has been in contact with Defendant regarding numerous violations and nuisances on the Property since 2020. Instead of working with the City and curing the defects, Defendant concealed an ongoing water leak for nearly two years and has taken no steps to mitigate the serious fire hazard and visual impairment to motorist safety presented by the overgrowth. Defendant also demonstrated his unwillingness to communicate or work with his neighbors to preserve his Property or theirs. Defendant has continued to harm all parties involved through his inaction despite informal communications from the City, formal compliance orders, and repeated administrative fines totaling \$43,252.00. No other remedy at law will cure the hazards presented on the Property other than the City and its receiver to access the Property and address the hazards themselves.

A court may appoint a receiver pursuant to CCP §564(b) to preserve the property or rights of any party, “If it appears that the party seeking the appointment has at least probable right or interest in the property and that there is danger of its being lost or destroyed or misappropriated the appointment of receiver is appropriate.” (*Republic of China v. Chang*

(1955) 134 Cal.App.2d 124, 130-131 (citing *Armbrust v. Armbrust* (1946) 75 Cal.App.2d 272).) Here, the City has such interest in the Property, and there is a serious risk of waste and destruction to the Property and others if the current overgrowth and dilapidation is allowed to continue unchecked.

The court may also appoint a receiver pursuant to HSC §17980.7 if a property owner fails to comply within a reasonable time with terms of an HSC §17980.6 notice, and if the violations are so extensive and of such a nature that the health and safety of residents or the public is substantially endangered. In this case, the City provided an HSC §17980.6 notice in the form of a compliance order dated September 3, 2024 and Defendant failed to mitigate the identified violations. The overgrown and dilapidated condition of the Property, which is a fire hazard and visual impairment to motorists, threatens the safety of the general public and is negatively impacting the value and ability to sell surrounding properties.

**CU-25-00068**      **Shepherd, Jacob et al vs. General Motors LLC**

Plaintiffs' Motion for Sanctions is DENIED.

“Within 60 days after the filing of the answer or other responsive pleading, all parties shall, without awaiting a discovery request, provide to all other parties an initial disclosure and documents pursuant to subdivisions (f), (g), and (h).” (Cal. Code Civ. Proc. § 871.26(b).) The defendant or manufacturer shall provide to all other parties the warranty policies and procedure manuals and, if a pre-suit restitution or replacement request is made, the manufacturer's written statement of policies and procedures used to evaluate customer requests for restitution or replacement pursuant to “Lemon Law” claims. (Cal. Code Civ. Proc. § 871.26(h)(12), (15).) “Unless the party failing to comply with this section shows good cause, notwithstanding any other law and in addition to any other sanctions imposed pursuant to this chapter, a court shall impose sanctions...” (Code Civ. Proc., § 871.26(j).) Related, a party may request entry of an order to protect its confidential and proprietary business information at any time. (Stadish v. Sup. Ct. (Southern Calif. Gas Co.) (1999) 71 Cal.App.4th 1130, 1144.)

Here, Defendant General Motors (“GM”) has demonstrated good cause as to why it did not comply with the requirements of Code Civ. Proc. section 871.26. Specifically, it was

engaged in discussions with Plaintiffs to attempt to negotiate the stipulation by parties to sign a protective order and waited to disclose the documents while its motion for a protective order was heard before the court.

**CU-25-00108**      **Petition of Brandy Tavares**

The Petition is GRANTED as requested.

**CU-25-00121**      **Naegle vs. Franscioni**

Defendant's Demurrer to the Complaint is OVERRULED. The Court GRANTS all requests for judicial notice made in support of and in opposition to the Demurrer.

A demurrer serves to test the legal sufficiency of the complaint's factual allegations. (*Genis v. Schainbaum* (2021) 66 Cal. App. 5th 1007, 1014.) 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.) Although a demurrer admits the truth of all material facts properly pleaded or all ultimate facts alleged, it omits contentions, deductions, and conclusions of fact or law. (*Aubry v. Tri-City Hospital Dist.* (1992) 2 Cal.4th 962, 966-67; *Blank v. Kirwan* (1985) 39 Cal.3d 311, 318.) This is because pleadings must allege facts and not legal conclusions. (Cal. Code Civ. Proc §425.10; *Lesperance v. North American Aviation, Inc.* (1963) 217 Cal.App.2d 336, 343.) "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.*)

Plaintiff's sole cause of action alleges liability based on Defendant's breach of a contract. "To prevail on a cause of action for breach of contract, the plaintiff must prove (1) the contract, (2) the plaintiff's performance of the contract or excuse for nonperformance, (3) the defendant's breach, and (4) the resulting damage to the plaintiff." (*Richman v. Hartley* (2014) 224, Cal.App.4<sup>th</sup> 1182, 1186.)

The Complaint alleges that there was a contract, plaintiff performed the contract, that Defendant breached the contract by failing to remove his pump, failed to reinstall Plaintiff's pump, and failed to return the property to Plaintiff in the same condition as when received. The Complaint also alleges damages to Plaintiff.

Defendant argues that the demurrer should be sustained because Plaintiff made a judicial admission in the First Amended Complaint (filed July 6, 2022) in San Benito Superior Court Case No. CU-22-00073 that the agreement in that matter was fully performed by the parties (Plaintiff and Defendant Franscioni) and terminated by its own terms on November 30, 2014. Therefore, Plaintiff would not be able to prove the third element – defendant's breach. Defendant argues that the sham pleading doctrine should apply to prohibit Plaintiff from amending the complaint to contradict the statement that Defendant fully performed the agreement.

It is not disputed that the agreement in Case CU-22-00073 is the same agreement as in this matter, Case CU-25-00121. It is also not disputed that the parties referenced in Paragraph 8 of the First Amended Complaint ("FAC") in Case CU-22-00073 are the same parties in this matter. Defendant cites several cases in support of the contention that Plaintiff's admission that the parties fully performed the agreement and that the contract terminated in November 2014 should be binding upon the pleader and that Plaintiff should not be permitted to amend the pleading to state contrary facts. However, a plaintiff may avoid the effect of the sham pleading doctrine by explaining the conflicts between the pleadings. (*Larson vs. UHS of Rancho Springs, Inc.* (2014) 230 Cal.App.4<sup>th</sup> 336, 344.) Here, Plaintiff explains that the FAC was drafted and served before any party had undertaken any discovery, before Plaintiff had filed a claim for damages based on Defendant's failure to remove his equipment and before Defendant was advised and agreed to retrieve his equipment from Plaintiff's property.

**PR-18-00028                      In Re Conservatorship Of: Antonio Casillas Mojarro**

The Review Hearing is continued to November 24, 2025 at 10:30 a.m. to allow for the completion of the investigation report.

**PR-24-00004                      Estate of Leonard Joseph DiVito**

The Court has read and considered the Status Report filed on September 30, 2025. The hearing is continued to February 9, 2026 at 10:30 a.m.

**PR-24-00124                      In the Matter of Geraldine E. Stephens**

The Amended Petition for Settlement and for Final Distribution is APPROVED as requested.

**END OF TENTATIVE DECISIONS**