

Superior Court of California County of San Benito



Gil Solorio
Court Executive Officer

Tentative Decisions for January 13, 2022

Courtroom #1: Judge J. Omar Rodriguez

CU-20-00098 Jackson Pryor Group v. Lima, et al.

Defendants' Motion for Attorneys' Fees is GRANTED in the amount of \$267,679.61. The Court finds that the Defendants are the prevailing party as to the First Amended Complaint's fraud claim in light of Plaintiff's voluntary dismissal of its entire case. (*See Khan v. Shim* (2016) 7 Cal.App.5th 49, 56-57.) The contractual fee provision expressly provides that the prevailing party is entitled to their fees incurred in litigating claims sounding in tort that arise out of the contract. (*Santisas v. Goodin* (1998) 17 Cal.4th 599, 619.)

Here, the Option Agreement so provides for attorneys' fees "in any legal action...for enforcement of this Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any of the provisions of this Agreement, the successful or prevailing party or parties shall be entitled to recover reasonable attorneys' fees and other costs incurred in that action or proceeding..." Plaintiff's first cause of action for fraud within the scope of this clause. "Attorney's fees need not be apportioned when incurred for representation on an issue common to both a cause of action in which fees are proper and one in which they are not allowed." (*Reynolds Metal Co. v. Alperson* (1979), 25 Cal.3d 124, 129-130.) There is no clear distinction made in the First Amended Complaint between the fraud claim and the other contract-based causes of action. All of the causes of action rely upon the same core factual allegations, which is that when Defendants entered into the Option Agreement, they concealed their intention not to perform under the Option Agreement.

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Defendants' are not awarded attorneys' fees prior to the date that the First Amended Complaint was filed (which total \$80,132.89) nor are they are awarded attorneys' fees after the dismissal (which total \$27,750.00). Therefore, Defendants request is granted, except the initial request of \$375,087.50 is reduced by \$80,132.89 and \$27,275.00, which results in a total of \$267,679.61.

Defendants' request for judicial notice is granted.

CU-21-00122 Trinity Financial Services, LLC v. Gutierrez

The Motion to Dismiss is DENIED. The motion was based on the ground that Plaintiff had not filed an undertaking. Although late, Plaintiff did file a notice of undertaking on January 11, 2022.

CU-21-00224 Petition of Antonio David Johns

The Petition is GRANTED as requested.

PR-21-00082 Estate of Louis Sgattoni

The Petition is APPROVED. The Court finds that notice has been given as required by law. No bond is required as the all heirs have waived bond. 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 July 14, 2022 at 1:30pm for status of administration. No appearances 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. Lucia Areias is appointed the referee.

Petitioner to submit the proposed order.

PR-21-00097 Estate of Robert Dean Vaughn

The Petition is APPROVED. The Court finds that notice has been given as required by law. A bond is not required as the all heirs have waived bond. 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 July 14, 2022 at 1:30pm for status of administration. No appearances 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. Lucia Areias is appointed the referee.

Petitioner to submit the proposed order.

END OF TENTATIVE RULINGS