Superior Court of California
County of San Benito

Tentative Decisions for July 17, 2024

Courtroom #1: Judge J. Omar Rodriguez

10:30 a.m.

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

The hearing on the Motion is continued to August 7, 2024 at 3:30 p.m.

CU-22-00218 - Lopez v. Torres-Perez

Defendants' Motion to Compel Responses are DENIED as the issue is moot as discovery responses were eventually served. Due to the ambiguity surrounding the deadline to respond to the discovery requests, the court denies the award of sanctions related to this motion.

Further, the court notes that Plaintiff has not submitted a memorandum of points and authorities. Additionally, the filing of an omnibus motion to compel is a strongly disfavored practice in California. The practice of combining multiple motions for different types of discovery or combining motions to compel addressed to different parties creates both logistical and logical problems. The applicable statutes for each mode of discovery contain separate sections for each of these distinct motions. (i.e. Compare §§2030.260 (b) with 2030.3300; 2031.300(b) with 2031.310; and 2033.280 (b) with 2033.290).

****Please contact Judicial Courtroom Assistant, Wendy Guerrero, at (831) 636-4057 x129 or wguerrero@sanbenitocourt.org with any objections or concerns.**

CU-24-00059 Mitchell & Danoff Law Firm, Inc. v. Hoffman

AirBnB, Inc's Motion to Intervene

The court GRANTS AirBnB, Inc's Motion to Intervene. The court may permit a nonparty to intervene in a pending action when that party has an interest in the matter in litigation, an interest in the success of either party to the action, or an interest adverse to both parties to it. (Cal. Civ. Proc. §387(d)(2).) Such intervention is permissive in nature. The nonparty's interest must be direct, not consequential. It must be of direct and immediate character such that the nonparty will either gain or lose by the direct legal operation and effect of the judgment. (*People v. Sup. Ct. (Good)* (1976) 17 Cal.3rd 732,737.) The statute is intended to promote fairness and ensure the maximum involvement of all interested and affected persons, as it protects the interests of others affected by the judgment and obviates delay and multiple suits. (*Ibid*.)

Here the procedural elements of the motion for intervention have been met. The motion is timely under the statute, a proposed complaint is appended, and the motion sets forth the grounds upon which the motion is based. The nonparty in this matter has framed a direct and immediate interest in the outcome of this case as it will determine to whom they will release disputed funds from a settlement involving the Defendant. The disputed funds are specifically the subject matter of this action, and how much and to whom they will be distributed is the crux of the matter. The intervention will not enlarge the issues at bar, or expand the litigation, it will simply include the nonparty such that they will not be subject to multiple suits from the parties in different jurisdictions.

Defendant Hoffman's Motion to Change Venue and/or Quash Summons.

The court DENIES Defendant Hoffman's Motion to Change Venue and/or Quash Summons. The motion to quash filed by the Defendant is untimely. A motion to quash summons pursuant to California Code of Civil Procedure section 418.10 is required to be filed

prior to the deadline for a responsive pleading. Failure to timely file a motion to quash summons is fatal to that motion. In California, the deadline for filing a responsive pleading to a complaint is thirty days from the date the complaint was served. (Cal. Civ. Proc. §412.20). A motion to quash challenges the propriety of the court's exercise of jurisdiction over a Defendant for a 1) lack of sufficient minimum contacts with the forum to satisfy constitutional requirements; or that the issuance or service of summons was defective. In determining the facts, the court may look to a verified complaint (*Parsons v. Sup. Ct.* (2007) 149 Cal. App. 4th Supp 1, 7.) The court may also consider verified declarations or affidavits of the parties and other competent witnesses. (*Buchanan v. Soto* (2015) 241 Cal. App. 4th 1353, 1362.) The court may also consider Authenticated documentary evidence. (*Panero v. Centres for Academic Programmes Abroad, Ltd*. (2004) 118 Cal. App. 4th 1447, 1454.)

A motion for transfer of venue based, as it appears from the Defendant's motion, on the claim that this is an inconvenient forum is evaluated in terms of California Code of Civil Procedure section 397. The court must look to the nature of the action and whether these events create a factual nexus with this state, and moreover, this county. When an action is filed in a proper court, the judge must deny a motion for a change of venue under California Code of Civil Procedure section 397(a). (*See County of Siskiyou v. Sup. Ct*. (2013) 217 Cal. App. 4th 83, 94.) The court may, on the motion of any party, change the place of trial of an action to promote the convenience of witnesses and the ends of justice. (Cal. Civ. Proc. §397(c).) The party moving bears the burden of establishing these grounds for transfer as the plaintiff's choice of venue is presumptively correct. (*Lieberman v. Sup. Ct.* (1987) 194 Cal. App. 3rd 396, 401.) The moving party meets this burden by providing a detailed declaration specifying the names of the witnesses, including the witnesses expected to testify for the opposing party. (*Juneau v. Juneau* (1941) 45 Cal. App. 2nd 14, 15-17.) It must also state why it would be inconvenient for the witnesses to appear and must set out facts from which the court may conclude that the ends of justice will be promoted if the motion is granted. (*Pearson v. Superior Court* (1962) 199 Cal.App.2nd 691, 696.)

As to the question of venue, the proper venue for a contract action is any of the following 1) where the defendant lives or does business; 2) where the contract was made; 3) where the contract is to be or was performed; and 4) where the contract was broken. In this

instance, from the documents and declarations provided, the venue is proper in San Benito County, the Plaintiff's principal place of business and where the contract was entered and would have been performed. Moreover, the arguments made by Defendant regarding the convenience of witnesses address the facts of the event which precipitated her hiring the Plaintiff and have no bearing on the dispute in contract between the Plaintiff and Defendant.

The Case Management Conference is continued to August 21, 2024 at 10:30 a.m.

PR-23-00027 - Estate of Barbara A. Stauffer

The Petition for Approval of Final Distribution is APPROVED as requested.

PR-24-00053 - In re Kathleen Mazotti

Once Petitioner files the Duties and Liabilities of Personal Representative, the Petition is APPROVED as requested. Bond is waived. 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 January 15, 2025 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.

3:30 p.m.

CU-22-00006 - Hill v. Estrada Rodriguez

Summary Judgment and Summary Adjudication motions serve to determine whether there are any triable issues of material fact in order to ascertain whether trial is in fact needed to resolve the parties' dispute. (*Molko v. Holy Spirit Assn*. (1988) 46 Cal.3rd 1092, 1107.) A

summary judgment serves to resolve the case in its entirety, as to all causes of action and all parties to the case. A summary adjudication may address individual causes of action or as related to particular defendants, but the same underlying analysis and procedural requirements are imposed for both. Both motions are statutory in nature and authorized pursuant to California Code of Civil Procedure section §437c. As such both motions must follow the requirements of the statute as to the timing of the motions.

The moving party bears the burden of producing evidence which establishes that one or more of the elements of the Plaintiff's case cannot be established or there is a complete defense to that cause of action. (Cal. Civ. Proc. §437c(o)(2).) If the proponent carries that burden of production, there is a shift to the objecting party to make prima facie showing of the existence of a triable issue of material fact. (Cal. Civ. Proc. §437c (p)(2); *Aguilar v. Atlantic Richfield Co.* (2001) 25 Cal.4th 826, 850.) To meet this burden of production in both seeking summary judgment and defending against it, the parties must produce admissible evidence, and in the case of the Plaintiff they may not rely on allegations in the pleading, speculation, or conjecture, but must produce evidence creating a triable issue of material facts. When the evidence shows that there is no triable issue of material fact, the court must grant summary judgment. (Cal. Civ. Proc. §437c(c); *Aguilar v. Atlantic Richfield Co*., supra, at 843.)

Defendant's first argument in support of its Motion for Summary Judgment ("Motion") is that Plaintiffs failed to provide factually sufficient answers to discovery that was propounded at the outset of the case and failed to provide updated discovery responses. Defendant is correct that it took until the 20th page of the opposition to the summary judgment motion to state that their claim is based on the kind of signage used, and that had Defendant utilized a CMS system that the dangerous condition could have been ameliorated. However, there is no continuing duty under California law to supplement responses to discovery. (See e.g. Cal. Civ. Proc. §2031.050(b), which permits the propounding party to serve a supplemental demand of discovery.) That stated, the Defendant is allowed to rely upon such factually devoid discovery responses to shift the burden of proof pursuant to CCP§437c(o)(2). It rests then with Plaintiff to set forth specific facts which prove the existence of a triable issue of material fact, which Plaintiff provided in its opposition papers.

Defendant's second argument in support of its Motion is based on design immunity. The elements of the defense that Defendant must establish are 1) there is a causal relationship between the plan or design and the accident; 2) there was discretionary approval of the plan or design before construction; and 3) substantial evidence supports the reasonableness of the plan or design. (Gov. Code §83.6; *Cornette v. Dept. of Trans*. (2001) 26 Cal. 4th 63, 69.)

The first element is that the accident was caused by some feature inherent in the approved plan or design as distinguished from a different cause. This is ordinarily, as here, established by the allegation in the complaint that the injury occurred as a result of the plan or design. (*Alvis v. County of Ventura* (2009) 178 Cal.App.4th 536, 550.) Though disputed, the Defendant may rely upon them in order to establish this causal element for the immunity defense. (*Fuller v. Dept. of Trans*. (2001) 89 Cal. App. 4th 1109, 1114.)

The second element requires discretionary approval of the plan or design before construction, which Plaintiff contests. In order to fulfill this requirement, there must be approval in advance of construction by the legislative body or officer exercising discretionary authority. (*Ramirez v. City of Redondo Beach* (1987) 192 Cal. App. 3rd 515, 526.) Government Code section 830.6, as applied to the element of discretionary approval, requires only "discretionary approval by the appropriate employee." (*Hampton v. County of San Diego* (2015) 62 Cal.4th 340, 350.) The court is to not second guess the discretionary decisions of public officials when the issue is whether there was prior approval of the design. (*Anderson v. City of Thousand Oaks* (1976) 65 Cal. App. 3rd 82, 89.) Here, the declaration of Mr. Kuhl, provides sufficient evidence that this element is met (Kuhl Dec ¶¶15-20, ex N to Austin Dec, UMF 12,13.)

As to the third and final element, in order to determine that there is substantial evidence of the reasonableness of the plan or design, Defendant is required to provide evidence "of solid value, which reasonably inspires confidence." (*Arreola v. City of Monterey* (2002) 99 Cal App. 4th 722, 757.) Defendant notes design immunity must be granted "as long as reasonable minds can differ concerning whether a design should have been approved; the statute [governing design immunity] does not require that property be perfectly designed, only that it be given a design which is reasonable under the circumstances." (*Gonzales v. City of Atwater* (2016) 6 Cal. App. 5th 929, 946.) Where, as here, there was approval by competent

professionals, such a licensed civil engineer's expert opinion on reasonableness, would be sufficient substantial evidence of design reasonableness. (Ibid. at 953-954.) Conflicting expert testimony as to the reasonableness of the design does not preclude immunity. Even if it is contradicted, what matters is whether there is any substantial evidence of reasonableness of the approved design. This is so even if a Plaintiff presents evidence that the design was defective. (*Sutton v. Golden Gate Bridge, Highway & Transportation Dist*. (1998) 68 Cal.App. 4th 1149, 1158.)

Notably this last element is reserved for the determination of the court even if there is a disputed issue of fact. (Cal. Gov. Code §830.6.) In making this determination the court must apply the deferential substantial evidence standard in determining whether any reasonable public official could have approved the challenged design. (*Gonzalez*, supra, at 953.) In light of the Hampton decision which confirmed that design immunity bars a plaintiff's dangerous conditions cause of action even where a plaintiff's expert suggests the design did not meet applicable and current standards. Here, CalTrans in providing the declaration of Mr. Kuhl, who reviewed and evaluated the design plans and their historical development at the subject location, that the design plans were approved as reasonable by licensed engineers vested with the discretionary authority to give that approval. Moreover, that the plans for the subject location conformed to the standards at the time of design and construction, and that construction was completed in conformity with those plans and that the designs themselves were reasonable. (UMF 14, Kuhl Dec ¶¶15-20, and EX M.) The immunity defense is therefore established. Since the claim against CalTrans for loss of consortium is premised on liability for a dangerous condition on public property, that claim also fails as to CalTrans.

The Court sustains each and every objections filed by Defendant.

CU-23-00011 - De La Rosa v. San Benito Health Care District

The Case Management Conference is continued to January 15, 2025 at 10:30 a.m.

CU-23-00047 - Morales v. Taylors Farms Retail, Inc., et al.

The Case Management Conference is continued to November 13, 2024 at 10:30 a.m. Plaintiff to provide notice to all parties.

CU-24-00118 - In re Siljeff Tabancay

The Petition is APPROVED as requested.

PR-24-00054 - In re Linda Dike (The Bennett-Klein Trust)

The Petition to Modify Trust is APPROVED as requested.

END OF TENTATIVE DECISIONS

****Please contact Judicial Courtroom Assistant, Wendy Guerrero, at (831) 636-4057 x129 or wguerrero@sanbenitocourt.org with any objections or concerns.**