



# Superior Court of California County of San Benito

## Tentative Decisions for July 3, 2024

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

**10:30 a.m.**

**CU-23-00241 Estate of Jason Charles Manning v. State of California, et al.**

The Case Management Conference is continued to July 31, 2024 at 10:30 a.m.

**CU-24-00027 Lacher v. State of California Department of Transportation**

The unopposed Petition seeking relief from Government Code section 945.4 is APPROVED.

**CU-24-00037 3GM, Inc v. Source Distributions, LLC, et al.**

The Case Management Conference is continued to September 25, 2024 at 10:30a.m.  
Plaintiff to provide notice.

**CU-24-00038 Perez v. Tiffany Motor Company**

The Case Management Conference is continued to September 25, 2024 at 10:30a.m.

**CU-24-00039 Jimenez Yanez v. Feng**

The Case Management Conference is continued to September 25, 2024 at 10:30a.m.  
Plaintiff to provide notice.

**CU-24-00100 Petition of Sarah Rodriguez Larios**

The Petition is DENIED without prejudice. Petitioner failed to file a proof of publication with the court.

**PR-23-00084 Estate of Jack James Rau Jr.**

The Petition for Waiver of Account and Approval of Final Distribution is APPROVED.

**PR-24-00051 In re Robert S. Padron and Alice V. Padron Revocable Trust**

The Court has read and considered the Petition for Final Approval as well as the objection. The Petition for Final Approval of the Accounting is denied and the request for Compensation for Petitioner is also denied at this time.

The current trustee, March Anthony Padron, is ordered to provide a code-complaint account for the Trust and distribute the remaining Trust assets to the beneficiaries. The request to deny the current trustee is denied.

**3:30 p.m.**

**CU-24-00047 CV Transportation, Inc. v. Stronghold Builders Group, et al.**

The case management conference is continued to September 25, 2024 at 3:30p.m.

**CU-23-00049 DeCarlo v. Envirosiences, LLC, et al.**

Motions to Compel

Plaintiff's Motions to Compel Further Responses to Special Interrogatories, Form Interrogatories, and Requests for Production, Set One filed against both Defendant Jim Friebel and Jim Friebel Trucking, Inc. are DENIED without prejudice.

The current motions fail to comply with the Rules of Court. "A motion concerning interrogatories, inspection demands, or admission requests must identify the interrogatories, demands, or requests by set and number." (Cal. Rule of Court 3.1345(d).) Here, the motions fail to identify such information. Moreover, the separate statements fail to comply with California Rule of Court 3.1345(c). "A separate statement is a separate document filed and

Page 2 of 4

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

served with the discovery motion that provides all the information necessary to understand each discovery request and all the responses to it that are at issue.” (*Ibid.*) The contents of the separate statement are to provide a summary of each relevant documents, including the pleadings, if the discovery request is dependent on the response given.” (Cal. Rule of Court 3.1345(c)(6).) Here, Plaintiff failed to provide a summary of the relevant document and could not provide a summary of the relevant pleading because the relevant, operative pleading was not filed until after the current motions to compel. The motions to compel were filed on May 7, 2024 and provided an analysis under, presumably, the First Amended Complaint. However, the Second Amended Complaint was filed on May 29, 2024, which supersedes the prior complaint and controls.

Moreover, Plaintiff failed to meet and confer before the filing of the current motions. In a meet and confer effort, the parties are required to engage in a reasonable, good faith effort to resolve the dispute. (*Towsend v. Sup. Ct.* (1998) 61 Cal, App. 4th 1431, 1437.) Notably this requires a serious effort at negotiation, and informal resolution. What is necessary to fulfil this obligation is dependent on the scope and complexity of the issues that are the subject of the litigation. The court notes that the last effort at meet and confer in the case at bar was in July 2023, predating both amended complaints filed by the Plaintiff as well as the demurrers, which were sustained.

It should be added that Plaintiff has again filed omnibus motions. In this instance, the motion while directed to individual defendants continues the unacceptable practice of combining motions to compel responses for different discovery tools into a single motion. A review of the Code of Civil Procedure and the Rules of Court mandate that these be individual motions. While Plaintiff has, at least, provided individual separate statements, the underlying procedural defects remain.

#### Claim of Exemption

The court denies the order of exemption sought by Plaintiff De Carlo as it is untimely. Pursuant to California Code of Civil Procedure Section 484.060(a) the party seeking to oppose the issuance of a right to attach order or one who objects to the amount sought to be

secured by the attachment “shall file and serve upon the plaintiff no later than five court days prior to the date set for hearing a notice of opposition.” In this instance the opposition was initially heard July 12, 2023. The motion is thus untimely. Defendant’s request for sanctions for raising this meritless motion is declined at this time.

**CU-24-00104 Petition of Maria Elvia Rose**

The Petition is APPROVED as requested.

**END OF TENTATIVE DECISIONS**