

November 10, 2025 Truckee Civil Law & Motion Tentative Rulings

1. CL0002849 LVNV Funding LLC vs. Virgil Freeman

Appearance required by Plaintiff to show cause as to why this case should not be dismissed and/or Plaintiff sanctioned for failure to serve the Summons and Complaint on Defendant despite the fact this case has been pending for almost six (6) months. Absent good cause being shown, the Court intends to set the matter for dismissal pursuant to CCP section 583.420 and vacate the trial date set for January 16, 2026 at 11:00 a.m.

2. CL0002961 Portfolio Recovery Associates, LLC vs. Herlinda Mora Urbina

No appearances required. On the Court's own motion and in light of the Declaration filed by counsel for Plaintiff, the Court continues the OSC re Dismissal to December 8, 2025 at 1:30 p.m. in Dept. A. Plaintiff shall file a proof of service, an application to serve by publication (if deemed appropriate), or a request for dismissal of defendant in advance of the continued order to show cause date.

3. CL0002984 Midland Credit Management Inc. vs. Rebekah A Huitema

Appearance required by Plaintiff to show cause as to why this case should not be dismissed and/or Plaintiff sanctioned for failure to serve the Summons and Complaint on Defendant despite the fact this case has been pending for four (4) months. Absent good cause being shown, the Court intends to set the matter for dismissal pursuant to CCP section 583.420 and vacate the trial date set for March 20, 2026 at 11:00 a.m.

4. CL0003018 Bank of America, N.A. vs. Denise L Dambra

No appearances required. On the Court's own motion and in light of the Declaration filed by counsel for Plaintiff, the Court continues the OSC re Dismissal to December 22, 2026 at 1:30 p.m. in Dept. A. Plaintiff shall file a proof of service, an application to serve by publication (if deemed appropriate), or a request for dismissal of defendant in advance of the continued order to show cause date.

5. CU0001398 Brianna Vigrass v. Avian Borden, et al.

This matter is before the Court on a petition for compromise of minor's claims. The hearing is continued on the Court's own motion to December 8, 2025 at 1:30 p.m. in Department A to allow counsel for Petitioner to correct certain deficiencies in the Petition. The petition does not contain a description of the settlement terms – section 10(c) is blank. Other notations:

-Section 11 seems to be filled out incorrectly and incompletely.

-Unclear what payment is being referenced in 12(b)(5)(b)(ii) when 12(a)(2) amount is inconsistent with 12(b)(4)(b) amount and 12(b) indicates no medical payments made.

-Section 13(b) lists amount which total \$932.65 – not the \$8,398.89 indicated and the attachment box is not checked. There is an attachment referencing section 14, but this likely is meant to refer to section 13(b).

Additionally, the Petition indicates the total amount offered by all defendants to others is \$600,000; however, the listed settlement payments to others exceeds that amount.

Petitioner is directed to timely update the petition before the continued hearing date AND provide the Court a courtesy hard copy pursuant to the Court's local rules. See, LR 106(A)(8).

No appearances are required in light of the Court's order; however, appearances by the settling defendant and guardian ad litem shall be required at the continued hearing date.

6. CU0001445 James B. House vs. Gregory Atchley et al

Defendant/Cross-Claimant Gregory Atchley and Defendant/Cross-Claimant Wood Structures, Inc.'s ("Defendants") motion for service by publication is DENIED without prejudice.

"Section 415.10 *et seq.* governs the manner of service of a summons. A summons may be served by various methods. If service of a summons by other means proves impossible, service may be effected by publication, upon the trial court's approval. [Citation omitted.] Section 415.50 governs this method of service." *Rios v. Singh* (2021) 65 Cal.App.5th 871, 880.

Under CCP section 415.50, "[a] summons may be served by publication if upon affidavit it appears to the satisfaction of the Court in which the action is pending that the party to be served cannot with reasonable diligence be served in another manner specified in this article and that either: (1) A cause of action exists against the party upon whom service is to be made or he or she is a necessary or proper party to the action. (2) The party to be served has or claims an interest in real or personal property in this state that is subject to the jurisdiction of the Court or the relief demanded in the action consists wholly or in part in excluding the party from any interest in the property." Code Civ. Proc., § 415.50(a)(1)-(2).

To show a party cannot with reasonable diligence be served in a manner other than by publication, "[a] number of honest attempts to learn the Defendant's whereabouts through inquiry and investigation generally are sufficient. [Citation omitted.] A plaintiff must show such efforts because it is generally recognized that service by publication rarely results in actual notice. [Citation omitted.] Whether the plaintiff exercised the diligence necessary to justify resort to service by publication depends on the facts of the case. [Citation omitted.] The question is whether the plaintiff took the steps a reasonable person who truly desired to give notice of the action would have taken under the circumstances." *Rios, supra*, 65 Cal.App.5th at p. 880.

In the application at bar, Defendants assert they identified the address of Cross-Defendant Cory Bimbert's ("Bimbert") law office as 1083 Mission Street, Third Floor, San Francisco, CA and attached a Declaration of Non-Service (law office service declaration) signed on September 16, 2025 by "independent contractor" David Cipres under penalty of perjury. Motion, Exh. 1. The service declaration identifies four attempts to serve Bimberg at the law office between August 28 and September 3, 2025. *Id.* The service declaration reflects that, during the service attempts, Bimberg was "not there", "office is closed", "no answer at door", or "no one works in office." *Id.* Defendants also assert they identified the address of the law school Bimberg teaches at as an adjunct professor as Hastings Law School, 200 McAllister Street, San Francisco, CA. Motion,

3:9-10; 3:18-19. Attached to the application is a Declaration of Non-Service (law school service declaration) signed on September 23, 2025 by “independent contractor” Luis Arturo Mendez under penalty of perjury. Motion, Exh. 2. The service declaration identifies four attempts to serve Bimberg at the law school between September 12 and September 22, 2025. *Id.* The service declaration reflects that during the service attempts Bimberg was “not here today” and “the last time the professor checked in was [i]n March.” *Id.*

Defendants have failed to demonstrate what efforts they have taken to engage in a thorough, systematic investigation and inquiry in order to learn of other potential locations to serve Bimberg. For example, wholly absent from the application is any information showing whether the addresses in the service attempts were current or valid. To the extent it can be inferred from the scant information offered in the application that Bimberg could not reasonably be served at either the law office or law school address, or that a valid address at which Bimberg could be served following the unsuccessful attempts at service could not be ascertained, also absent from the application is any information or evidence showing any attempt by Defendants to learn Bimberg’s whereabouts. *Watts v. Crawford* (1995) 10 Cal.4th 743, 749, fn. 5 (generally discussion regarding sufficiency of “honest attempts” to learn Defendant’s whereabouts). Thus, Defendants have failed to demonstrate the necessary “quantum of diligence as would justify resort to service by publication.” *Donel, Inc. v. Badalian* (1978) 87 Cal.App.3d 327, 333.

In addition, to the extent it can be inferred that the law office and law school addresses were valid, or the information showed Bimberg conducted business at these addresses notwithstanding that he was not present during the service attempts, there is no information to show Defendants attempted another or alternative manner of service specified in section 415.10 *et seq.*, in addition to the attempts to personally serve the petition as described in the service declaration. There is also no information or evidence presented in the application to show why substitute service under section 415.20 could not be effected at either of the addresses. For this reason, it appears that Defendants failed to use reasonable diligence to serve Bimberg with the petition “by a means superior to publication” before filing the application. *Rios, supra*, 65 Cal.App.5th at 881.

Therefore, based on the above, Defendants’ application for service by publication is denied. Defendants may file an additional request in the future if desired. Any future request should include declaration(s) from individual(s) with first-hand knowledge who describe, in detail, what efforts have been made to effect actual personal service on Bimberg.

7. CU0001660 Alana Bellucci vs. Chad Yates et al

Appearances required. The parties shall be prepared to update the Court on the status of dismissal. Specifically, Plaintiff shall be prepared to update the Court regarding her failure to re-file the Request for Dismissal with signatures by all parties as directed by the Court in its July 18, 2025 tentative ruling, as well as Plaintiff’s failure to appear at the August 25, 2025 and October 13, 2025 OSCs. The Court is in receipt of the Declaration filed by counsel for Defendants regarding their failure to appear at the August 25, 2025 hearing and, accordingly, dismisses the OSC re sanctions as to Defendants. Should Plaintiff resubmit the request for dismissal with reference to a “mutual waiver of costs” signed by counsel for all parties or, in the alternative, remove the reference to a “mutual” waiver thereby negating the need for a signature by counsel for Defendants, the Court will waive appearances. For the sake of clarity, parties are advised, whenever a request

for dismissal requests the dismissal include a “mutual” agreement which, upon approval and filing of the dismissal, is adopted by the Court, all parties must sign.

8. CU0001838 Anthony Ramos Hernandez vs. Mastercorp, Inc., et al

Appearances required. The Court is inclined to grant Defendants’ unopposed *ex parte* application for trial continuance and continue trial dates approximately 120 days. However, the Court cannot extend cut off dates in relation to new trial dates absent a written or oral (on the record) stipulation of all parties, or, in the alternative, a properly noticed motion and resulting order of the Court. See, CCP 2024.020, et. seq. No written stipulation related to cut offs being extended has been provided. Accordingly, absent more, all cut offs will relate to the originally set trial date.

California Rules of Court, Rule 3.1332(c) states that although “disfavored, each request for a continuance must be considered on its own merits. The court may grant a continuance only on an affirmative showing of good cause requiring the continuance.” Cal. Rules Ct., Rule 3.1332(c). Circumstances that may indicate good cause includes “[a] party’s excused inability to obtain essential testimony, documents, or other material evidence despite diligent efforts.” Cal. Rules Ct., Rule 3.1332(c)(6).

Defendants request a four-month trial continuance from the currently scheduled trial date of March 4, 2026 to approximately 120 days after. They state a continuance is warranted to continue with discovery including taking Plaintiff’s deposition. Marsenovic Decl., ¶ 3; Cal. Rules of Ct., Rule 3.1332(c)(6). Moreover, they note they are seeking a continuance months in advance to alleviate any docketing issues; this is the first request to continue trial; they seek a brief continuance of 120 days of trial and related deadlines which have not yet expired; no other means exist to accomplish the goals of the parties, which are to avoid undue costs and informal settlement efforts; no prejudice will be suffered by either party; all parties have stipulated to the requested continuance; and the interests of justice will be served by the requested relief because the continuance of trial and the deadlines still pending will maintain the status quo and allow for informal settlement negotiations and/or mediation before the need for motions practice and the waste of judicial resources. Marsenovic Decl., ¶¶ 3-4, 6, 8, Ex. A; Cal. Rules of Ct., Rule 3.1332(d)(1)-(5), (9)-(10).

Based on the moving papers and declaration submitted in support thereof, the Court finds a good cause to grant the request. However, the Court requires parties to appear in that the moving papers do not contain any information as to availability of both signed for trial.