

August 1, 2025 Civil Tentative Rulings

1. CU0001605 Andrew Alan Johnson vs. Donald Judas

No appearances required. The Court's order granting Plaintiff's Motion to Compel Deposition of Defendant and Request for Sanctions was signed and entered by the Court on July 15, 2025.

2. CU0001723 UMPQUA BANK, as Successor by Merger to Columbia State Bank, an Oregon State Chartered Bank vs. Joseph A. Miller, DMD, Inc., a California Corporation et al

This matter is before the court from the continued hearing on Receiver's Motion for Order 1) to Show Cause re Contempt against Jeffrey Guyton, Counsel for Defendant Miller; 2) Compelling Turnover of Wrongly Appropriated Funds; and 3) Compelling Accounting. The court's tentative ruling from the June 27, 2025 hearing found a prima facie showing that there were contemptible violations of the March 24, 2025 Minute Order and the April 4, 2025 Receivership Order, and that unless the contempt is purged by the time set for the hearing, the matter will be set for sentencing.

The parties are directed to appear to determine the status of the contempt, Mr. Guyton's need for counsel, and if sentencing will be set.

The court notes that Receiver Ampleo Turnaround & Restructuring, LLC ("Ampleo" or "Receiver") also filed a motion for contempt sanctions against Defendant Joseph A. Miller for violation of the receivership order. However, the motion lacks both proper notice as well as proof of service, and fails to include a hearing date and time. Thus, the motion is denied without prejudice on procedural grounds.

3. CU0002094 In the Matter of The Mortgage Law Firm. PLC

Petitioner's motion is denied without prejudice. The court directs petitioner to refile the motion with strict adherence to the notice requirements of Civil Code section 2924j(d).

Unless an interpleader action is filed, Civil Code section 2924j allows a trustee to deposit with the court surplus proceeds after a trustee's sale once the costs and expenses of the trustee's sale and the obligation secured by the deed of trust are made. Within thirty days of execution of the deed of trust, the trustee must give notice of the completed trustee's sale and potential claim to all or part of the proceeds of the trustee's sale to "all persons with recorded interests in the real property as of the date immediately prior to the trustee's sale." Civ. Code § 2924j(a).

The potential claimants have thirty days to present proof of claim to the surplus proceeds. *See* Civ. Code § 2924(a)(4)(C). The trustee has 90 days to determine the priority of claims. *See* Civ. Code § 2924j(b). If unable to do so, it may, within ten days, deposit the funds with the clerk along with a declaration that includes the following:

The date of the trustee's sale, a description of the property, the names and addresses of all persons sent notice pursuant to subdivision (a), a statement that the trustee

exercised due diligence pursuant to subdivision (b), that the trustee provided written notice as required by subdivisions (a) and (d), and the amount of the sales proceeds deposited by the trustee with the court. In addition, the trustee must submit a copy of the trustee's sales guarantee and any information relevant to the identity, location, and priority of the potential claimants.

Civ. Code § 2924j(c).

Before depositing the proceeds and declaration, the trustee must give notice of its intent to deposit the proceeds to the parties with a recorded interest in the property that was the subject of the trustee's sale. Those parties have thirty days to file a notice of claim to the deposited proceeds. *See* Civ. Code § 2924j(d).

If a conflict exists as to the total proceeds, the trustee may deposit the total proceeds with the clerk. Once the funds are deposited, the trustee is discharged of any further responsibility for the disbursement of the proceeds. The court has 90 days after the funds are deposited to consider all claims filed at least fifteen days before the date on which the hearing is set by the court. *See ibid.*

The Instant Case

In this case, the trustee's sale took place on March 16, 2022; seemingly tardy notice of the same was given to potential claimants on April 19, 2022. That notwithstanding, no claims were presented to trustee in the thirty days after. On or about July 12, 2022, a purported claim was received from The Hendricks Group D&P, LLC ("Hendricks"), which included a purported Affidavit of Assignment of Claim and Authorization to Communicate with Hendricks, both purportedly executed by Former Trustor Karen Sue Lugo ("Former Trustor") on March 18, 2022. The Petitioner declares that based on communication with law enforcement authorities, it was informed that Hendricks was on a watch list for paralegal services in the business of defrauding former trustors of their foreclosure surplus proceeds claims, and based on the same informed Hendricks it would not distribute Former Trustor's proceeds to Hendricks and would attempt to locate Former Trustor directly.

Thereafter, Petitioner hired a private investigator in August 2024, who was able to establish contact with Former Trustor. On September 29, 2024, the private investigator informed Former Trustor of the surplus funds. However, petitioner has not received a claim for the funds from Former Trustor. Petitioner states that accordingly, after due diligence, it is unable to distribute funds, as no legitimate claims have been received.

The court notes the period of two years between receiving the purported claim and the hiring of the private investigator to locate Former Trustor. The court also notes that while petitioner asserts evidence that Hendricks was defrauding former trustors, Hendricks was also listed as a recipient in its Notice of Surplus Funds sent on April 19, 2022. The Distribution List included: Former Trustor Karen Sue Lugo; Edwin R. Williams c/o Law Office of Ronald A. Lange; First American Title Insurance Co.; and Hendricks Group. The Hendricks Group in the Distribution List has the same address as Hendricks.

Pursuant to Civil Code § 2924j(d), the trustee shall send written notice to **all** persons described in subdivision (a) informing them of its intent to deposit the funds with the clerk of court. The Distribution List attached to petitioner's Notice of Surplus Funds identifies the persons described in subdivision (a), all those with recorded interests in the real property as of the date immediately prior to the trustee's sale, which includes any agents for the mortgagee or beneficiary, named trustee, or substituted trustee. Civil Code § 2924j(a); Civil Code 2924b(b)(4).

In the case at bar, it appears petitioner has only sent written notice of its intent to deposit funds with the clerk of court to Former Trustor. There is no notice on record to Edwin R. Williams c/o Law Office of Ronald A. Lange; First American Title Insurance Co.; or Hendricks Group. Therefore, the court must deny petitioners motion without prejudice. The court directs petitioner to refile the motion with strict adherence to the notice requirements of Civil Code section 2924j(d).

4. CL0000572 Reis, Gerry v. Reis, Roger

Defendant's demurrer is sustained without leave to amend.

Defendant argues that the complaint fails to state a cause of action and is uncertain. The court agrees. A civil complaint must state the facts upon which the claims are based. This complaint does not include any such facts supporting any causes of action, even after Plaintiff was given leave to amend after the demurrer was sustained as to his original complaint.

A complaint may be dismissed if the complainant fails to assert a cognizable legal theory, or if he asserts insufficient facts under a cognizable legal theory. *Landry v. Berryessa Union School Dist.* (1995) 39 Cal.App.4th 691, 699. Here, Plaintiff failed to mark any cause of action in section 8. The court is unable to clearly ascertain what causes of action Plaintiff intends, but causes of action for personal injury, property damage, and negligence seem to be implied. However, Plaintiff failed to plead any facts supporting these, or any other, causes of action. Moreover, Plaintiff makes no showing that he may be able to sufficiently plead a cause of action against Defendant. Therefore, Defendant's demurrer as to the entire complaint is sustained without leave to amend.