

November 7, 2025, Civil Law & Motion Tentative Rulings

1. CU0001544 Caitlin Peters vs. Cara Krpalek, et al.

This is a *new* tentative ruling in connection with Defendant Jiri Krpalek's July 21, 2025, motion to set aside the default. The tentative ruling previously issued on October 2, 2025, was not adopted.

The Court, on its own motion, sets aside the default entered on March 6, 2025, against defendant Jiri Krpalek.

The default was improvidently entered by the clerk. "Plaintiff must file an affidavit with the court stating that a copy of the application for entry of default has been mailed to defendant or his attorney." *Ely v. Gray* (1990) 224 Cal.App.3d 1257, 1260, *citing* Code Civ. Proc. § 587. "No default under subdivision (a), (b), or (c) of Section 585 or Section 586 shall be entered, unless the affidavit is filed." Code Civ. Proc. § 587.

Here, Plaintiff did not submit an affidavit with her request for default stating that a copy of the application had been mailed to defendant at his last known address as required. *See* 3/6/25 Request Default. The default is set aside as to defendant Jiri Krpalek. A responsive pleading shall be served and filed within 10 calendar days.

Defendant Jiri Krpalek's July 21, 2025, motion to set aside the default is denied as moot.

The Court notes Plaintiff's address of record was out of date. The parties are reminded that they must always ensure that their current address is known to the court and all parties. Any change of address must be filed and served on all parties.

2. CU0001723 Umpqua Bank vs. Joseph A. Miller, DMD, Inc., et al.

Pending before the court are: (1) the May 6, 2025, Receiver's motion for an order to show cause regarding contempt against Jeffrey Guyton, and seeking other relief; (2) the August 20, 2025, Receiver's motion for a protective order; and (3) the July 15, 2025, Receiver's motion for contempt sanctions against Defendant Joseph A. Miller.

Stay Pending Appeal

As a preliminary matter, the parties were directed to brief the question of whether the first two motions were stayed during the pendency of an appeal by Joseph Miller, DMD. Mr. Guyton argues the contempt proceedings are stayed pending resolution of the appeal; the Receiver argues they are not. On the Court's motion, hearing as to this issue is continued until December 19, 2025, at 10:00 a.m., in Dept. 6.

Receiver's Motion for an OSC Regarding Contempt against Jeffrey Guyton

The May 6, 2025, Receiver's motion for an order to show cause regarding contempt against Jeffrey Guyton, and seeking other relief, is continued on the Court's motion to December 19,

2025, at 10:00 a.m., in Dept. 6. Please note that an order to show cause has not yet issued. The minutes from June 27, 2025 indicate that Judge Pollak did *not* enter an order to show cause on that date; Judge Pollak has confirmed the same.

Receiver's Motion for Protective Order

On the Court's motion, the Receiver's motion for a protective order is continued to January 30, 2026, at 10:00 a.m., in Dept. 6. The motion references both a Rothschild declaration and exhibits. No exhibits were filed with the Court or apparently served on Mr. Guyton. As such, the motion cannot be adjudicated at this time. The Court directs the Receiver to file and serve the motion and all associated papers by November 14, 2025, noticed for hearing on the date noted.

Receiver's Motion for Contempt Sanctions Against Defendant Dr. Joseph A. Miller

"The facts essential to jurisdiction for a contempt proceeding are '(1) the making of the order; (2) knowledge of the order; (3) ability of the respondent to render compliance, (4) wilful disobedience of the order.' " *Application of Liu* (1969) 273 Cal.App.2d 135, 140. Code of Civil Procedure "[s]ection 1211 requires that an affidavit be presented to the judge reciting the facts constituting contempt." *Ryan v. Commission On Judicial Performance* (1988) 45 Cal.3d 518, 532. Indeed, "the filing of a sufficient affidavit is a jurisdictional prerequisite to a contempt proceeding." *Koehler v. Superior Court* (2010) 181 Cal.App.4th 1153, 1169.

The court is satisfied that the July 15, 2025, Dane Clark declaration sufficiently alleges facts essential to jurisdiction for a contempt proceeding against Dr. Miller. Dr. Miller is ordered to show cause, if any, why he should not be adjudged guilty of contempt of court, and punished accordingly, for alleged acts of willful disobedience of the March 24, 2025 and April 4, 2025, orders of the Court, as provided in section 1209(a)(5) of the California Code of Civil Procedure, and as more fully described in the July 15, 2025, declaration of Dane Clark. In summary, it is alleged that Dr. Miller engaged in the following contemptuous acts: "(1) secretly opening a new bank account to divert patient collections and make unauthorized payments to his personal attorney; (2) repeatedly denying the Receiver access to essential software systems for patient management and payroll, thereby paralyzing critical business functions; (3) sabotaging the business's IT infrastructure by removing or disabling critical data backup drives; (4) hijacking the company's email account to disseminate a false "hostile takeover" narrative to patients and prospective asset purchasers, intentionally damaging the business's goodwill; and (5) explicitly refusing to cooperate [with the Receiver], telling the Receiver's personnel, 'if you want access then figure it out, I'm not going to help you do your job.' "

The court will issue a separate order to show cause. The order must be served on the alleged contemnor in the same manner as a summons. See *Cedars-Sinai Imaging Medical Group v Superior Court* (2000) 83 CA4th 1281, 1286. Further proceedings as to the same shall be conducted on December 19, 2025, at 10:00 a.m., in Dept. 6.

3. CU0002046 Glenn Kalaveras, et al. vs. Kelly Purves

No appearances are required. The Court previously struck the Second Amended Complaint (SAC) on its own motion. *See* 10/27/25 Memo. Dec. Therefore, the August 20, 2025, motion by defendant Takhar to quash service of summons and the SAC, and the October 7, 2025, joinder by defendant Purves, are moot and removed from calendar.

4. CU0002312 Raymond Davey vs. Close Associates, et al.

The motion of Defendant Craig B. Close (dba Close Associates) for change of venue is granted. Defendant's request for judicial notice of the documents filed in Case No. CU0001850 is granted. Defendant's request for attorney's fees is granted in part.

Defendant moves to change venue to the Truckee branch pursuant to Local Rule 2.05 and Code of Civil Procedure sections 395, 396b, 397(a), and 398(c). He also seeks attorney's fees pursuant to Code of Civil Procedure section 396b(b). Defendant's requests have merit.¹

The Local Rules of the Nevada County Superior Court ("NCSC") govern the assignment of cases between its districts and departments. Code Civ. Proc. § 402.² The NCSC is only one court, even though it is divided into the Nevada City Branch and the Truckee Branch. *See generally, Glade v. Glade* (1995) 38 Cal.App.4th 1441, 1449. Pursuant to Local Rule 2.05(C), the "filing of cases shall be governed by the venue criteria of the Code of Civil Procedure.... Any case that would be venued in Nevada County and arises from an *occurrence* or residence in Truckee shall be filed in the Truckee Branch." (Italics added).

At bar, the case should have been filed in the Truckee Branch under the Local Rule. Based on the record presented, the court finds that: the contracts were entered into in Truckee; Defendant resided in Truckee when the contracts were entered into; the contractual legal services were performed in Truckee by Defendant, and Defendant is a sole proprietor with his principal place of business in Truckee. The subject lawsuit does not appear to relate to real property *per se*; it relates to purported legal malpractice, including breach of fiduciary duty, negligence and conversion.

The Court is not persuaded by any of Plaintiff's arguments to the contrary. Intracounty assignment of the case, as a preliminary matter, is based on application of the local rule. To the extent that Plaintiff has any concerns regarding his ability to obtain an impartial trial in Truckee, or believes that a Nevada City assignment would be more convenient, etc., he must file, notice and serve an appropriate motion regarding the same.

¹ Plaintiff's opposition was untimely and the Court has the discretion to disregard the same. The Court, in its discretion, has considered the untimely submission. Plaintiff is admonished that he must comply with all rules of procedure, including filing deadlines.

² At bar, there is no dispute that the action was properly filed in the county in which Defendant resides and where the contract was made and performed – Nevada County. *See* Code Civ. Proc. § 395(a); *see Brown v. Sup.Ct.* (1984) 37 Cal. 3d 477, 483.

The Court awards defendant reasonable expenses and attorney's fees associated with the instant case and instant motion only. Defendant reasonably attempted to resolve this issue without the necessity of motion practice (after raising the same issue in connection with a previous case filed by Plaintiff). Plaintiff unreasonably filed the lawsuit in the wrong branch court and unreasonably opposed the motion after being advised that the case was filed in the wrong branch court. Based on the current record, the court awards attorney's fees of \$6,375.00 (15 hours of reasonable time for motion at reasonable rate of \$425.00) and reasonable expenses of \$885.00 (\$450.00 secretarial expenses, \$435.00 filing fees). Plaintiff must pay total fees and expenses in the amount of \$7,260.00 to Defendant by no later than December 1, 2025.

5. CU0002188 Cassandra Jordan v. Ingrid Larson, et al.

Defendant Kiira Jefferson's unopposed demurrer to Plaintiff's complaint is continued on the Court's motion to December 12, 2025, at 10:00 a.m. in Department 6. The Nevada County bench has recused itself. The matter will be reassigned to another judicial officer.