

September 12, 2025, Civil Law & Motion Tentative Rulings

1. CU0000284 Tod DuBois vs. Scott Fetty, et al.

Plaintiff's June 30, 2025, "motion for injunction for preliminary orders for (nuisance) of rural broadband trench construction," is denied without prejudice. First, the motion is directed at "Scott Fetty *et al*-Lake Life Resorts LLC." 6/30/25 Notice (italics added). It is unclear, thus, whether the motion is only directed at Fetty and Lake Life Resorts and/or other non-specified defendants. Second, the filed notice appears to reference a date in the caption which seemingly could be construed to be the hearing date; the body of the motion, however, includes a blank with no information as to what date is actually set for the hearing of the matter. Third, the court was unable to locate any proof of service as to Lake Life Resorts. There does appear to be proof of service on Patrick Macias on behalf of defendants Fetty, Shroyer and Capaldo on July 2, 2025. 7/7/25 Proof of Service. Should plaintiff wish to reset this motion on calendar, he must properly file, serve, and provide proof of service of *all* documents on *all* defendants from whom he seeks relief, and specifically give notice of the actual date of hearing for the motion at issue, all as required by the Rules of Civil Procedure and Rules of Court.

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

This matter is before the court for the continued hearing on receiver's May 6, 2025, motion for an 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 (Polak, J.) 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; the matter was continued at the request of Mr. Guyton. On July 29, 2025, Mr. Guyton filed his first declaration in response thereto. On August 1, 2025, the matter was continued by the court (Kellegrew, J.) with an indication that Mr. Guyton was unable to retain counsel. On August 20, 2025, the receiver filed a motion for a protective order against Mr. Guyton set for November 7, 2025. On August 29, 2025, the receiver filed a motion to approve final disposition of assets and for discharge set for October 31, 2025. On September 10, 2025, Mr. Guyton filed his second supplemental declaration in response to the May 6, 2025, receiver motion.

The parties are directed to appear. Receiver shall indicate whether, in light of the current circumstances, it still seeks any or all of the relief in connection with its May 2025 motion. If so, further briefing shall be required as to the impact, if any, of the current appeal, and further proceedings shall be scheduled on November 7, 2025 regarding a hearing on the merits.

3. CU0002030 Jerry Tittle vs. Rick Dawson Savalin, et al.

Plaintiff's April 21, 2025, petition to convert criminal restitution orders into a civil judgment is denied without prejudice. Notice of the hearing is insufficient: notice of the September 12,

2025, hearing was served by mail on August 25, 2025. *See* Code of Civil Procedure 1005 (requiring service at least 16 court prior to hearing plus five calendar days for service by mail).

**4. CU0002275 Marcia Willardson vs. Ensen Mason, Auditor-
Controller/Treasurer/ Tax Collector, San Bernardino County**

Petitioner previously was directed to serve a copy of the petition for a writ of mandate and supporting documents, and the order to show cause (issued by Judge Hammer on August 20, 2025) within 15 days of the September 12, 2025, hearing. Here, petitioner's proof of service suggests respondent was served electronically and by mail. Such service is insufficient. "[S]ervice of a petition for an administrative writ of mandate must be in the same manner required for any civil action." *Board of Supervisors v. Superior Court* (1994) 23 Cal.App.4th 830, 839. Code of Civil Procedure " 'section 1096, which provides that a writ, including an alternative writ, must be served in the same manner as a summons in a civil action,' mandates personal service." *Wagner v. City of South Pasadena* (2000) 78 Cal.App.4th 943, 949; *see* Code Civ. Proc., § 1109 (provisions governing civil actions generally "constitute the rules of practice in" writ proceedings).

The court, on its own motion, continues the hearing of this matter until October 10, 2025. Petitioner shall prepare and lodge an appropriate order to show cause and shall personally serve the amended petition and supporting documents, and order to show cause within 20 days of the October 10, 2025, hearing. Respondent, once properly served, may file any opposition to the same within five days after service and filing of the above documents. *See* Code Civ. Proc. § 1107.

5. CU18-082824 Samuel MacGregor vs. Charles Elwood Yeager, et al.

The July 14, 2025, motion to amend the third amended judgment by defendants/cross-complainants Charles and Victoria Yeager is granted in part. The third amended judgment shall be amended to include a legal description of the subject property. No good cause has been demonstrated for any other amendment.

6. SC0000482 Dan Rooney vs. Setare Tree

The July 14, 2025, motion to set aside judgment is construed to be a motion to set aside the dismissal without prejudice for want of prosecution by Judge Pro Tem McFarlane on July 14, 2025, in Department 5. As construed, the motion is granted. The court credits the representation of plaintiff that he believed the July 14 hearing was set in *Department 6*, not Department 5. Good cause having been established, the dismissal is vacated. *See* Code of Civil Procedure §§ 116.710(a), 116.720. The matter is set for trial on Monday, November 10, 2025, in Department 5.