

6-27-25 Civil Tentative Rulings

1. 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 on Receiver's Motion for Order (1) directing Jeffrey P. Guyton ("Guyton"), attorney for Defendant Joseph A. Miller, DMD, Inc., to show cause why he should not be held in contempt of this Court for repeated, willful violations of the Court's Minute Order entered on March 24, 2025 (the "Minute Order"), and Order Expanding Powers of Receiver Over Joseph A. Miller, DMD, Inc. entered April 4, 2025 (the "Receivership Order" and, together with the Minute Order the (2) compelling Guyton to turnover the funds wrongfully appropriated thereby; and (3) compelling Guyton to produce an accounting of all funds received by him.

Since the filing of the Motion on May 6, 2025, the Court issued an Order permitting withdrawal of Mr. Guyton on May 27, 2025.

Contempt Orders:

In reviewing Plaintiff's request for contempt orders the Court is guided by *Code of Civil Procedure* section 1209 *et seq.* Plaintiff bases its request on Attorney Guyton's failure to comply with this Court's orders dated March 24, 2025 and April 4, 2024 (the "Order"). The elements of a prima facie case for contempt are (CCP section 1209(a)(5) and section 1209.5: a lawful (valid) order of the court; cite had knowledge of the order; and, cite did not comply with the order. The behavior alleged is an allegation of "indirect contempt" and must be supported by declaration or affidavit. (C.C.P. § 1211(a) [contempt not committed in the judge's presence must be supported by affidavit and consist of facts constituting the contempt]; *Koehler v. Superior Court* (2010) 181 Cal.App.4th 1153, 1169.)

It is the affidavit or declaration in support of the motion that, "like a complaint in a criminal case[,] ... frames the issues and must charge facts which show a contempt has been committed." (*Reliable Enterprises, Inc. v. Superior Court* (1984) 158 Cal.App.3d 604, disapproved on other grounds *Mitchell v. Superior Court* (1989) 49 Cal.3d 1230, 1248.) Here, the declaration of Dane Clark, a "Managing Director for an attorney" of the Receiver, constitutes the complaint in re: OSC and must, as a threshold matter, show all of the following: (1) issuance of the order on which the contempt is based; (2) the enjoined party's knowledge of the same; (3) ability to comply; and (4) willful disobedience. (See *In re Liu* (1969) 273 Cal.App.2d 135, 140-141.)

The Declaration of Dane Clark in Support of the Motion has established a prima facie case of contempt under the March 24, 2025 Minute Order ("Minute Order"). The Minute Order, which was issued without appearances by the Parties, stated, "No withdrawals shall be made from any bank account of the dental business unless agreed by all parties and approved by the court." The declaration also states that Plaintiff's counsel sent the Minute Order to Mr. Guyton on March 23, 2025; however, the Court notes no proof of service was attached as an exhibit to the declaration. Mr. Guyton's declaration does not address his knowledge of the March 24, 2024 Order. The Declaration of Dane Clark and the Court record establishes that there was an issuance of the order.

Mr. Clark's Declaration is also sufficient to establish Mr. Guyton's knowledge of the Minute Order, subject to submitting proof of service of the Minute Order. (*See* Declaration of Dane Clark ¶ 3.) On April 2, 2025, after the entry of the March 24, 2025 Order, Defendant wrote Mr. Guyton a check for \$15,000, and Mr. Guyton cashed the check on April 7, 2025. (*Id.* ¶¶ 5-6.) There was no agreement between all the parties, nor approval from the Court for this withdrawal. By endorsing the check, Mr. Guyton willfully disobeyed the Minute Order.

The Declaration of Dane Clark in Support of the Motion has also established a prima facie case of contempt under the Receivership Order issued on April 4, 2025 order. The Receivership Order states, in pertinent part, "Within five (5) business days of the entry of this Receivership Order...attorneys... are hereby ordered and directed to preserve and turn over to the Receiver all paper and electronic information of, and/or relating to, the Receivership Entity and all Receivership Assets; such information shall include without limitation books, records, documents, accounts..." and that, "The Receiver shall, to the exclusion of all others, including the Receivership Entity's current equity owner, have all management, powers, authorities, rights, and privileges (including the attorney-client privilege and work product protection for matters arising after the entry of this Receivership Order, and shall succeed to all contracts and privileges of the Receivership Entity, including those arising prior to the Receivership Order and all claims arising therefrom." The Minute Record and for the April 4, 2024 1:00 p.m. hearing notes that Mr. Guyton was present at the hearing, and the Court record shows Mr. Guyton was emailed the Order. Therefore, Mr. Guyton was aware of the Court's April 4, 2024 Receivership Order, and Mr. Guyton did not turn over an accounting to the Receiver within five (5) business days. Mr. Guyton had the ability to turn over the information, based on his attachments to his Declaration in Response to the Motion.

Moreover, regarding Mr. Guyton's willfulness to disobey both the Minute Order and the Receivership Order, it appears that Mr. Guyton was presented with multiple opportunities to comply prior to the filing of this Motion. Based on the Declaration of Dane Clark and attached exhibits, the attorney for the Receiver requested, multiple times, a return of the \$15,000 as well as a complete accounting of the amounts received by Mr. Guyton from Defendant. Rather than complying, Mr. Guyton responded that he had resigned as counsel and refused to perform any further services for Defendant, as well as "refuse to work for the Receiver in any capacity." (*See* Declaration of Dane Clark, Ex. A.)

Therefore, there is a prima facie showing that there is a contemptible violation of the March 24, 2025 Minute Order, subject to proof of service of the Minute Order. There is also a prima facie showing that there is a contemptible violation of the April 4, 2025 Receivership Order. Consequently, appearance of Mr. Guyton and Receiver's counsel are required for hearing. Because this is a quasi-criminal matter, the Court will determine if it is necessary to appoint an attorney to represent Mr. Guyton. Unless the contempt is purged by the time set for the hearing, the matter will be set for sentencing.

2. CU0001758 Kevin Snider vs. Linda Cavallaro

Pursuant to C.C.P. § 1048(a), the unopposed motion to consolidate Case No. CU0001758 (Kevin Snider v. Linda Cavallaro) and Case No. CU0001970 (Kevin Snider v. Gerald James

Demontmollin) is granted. Where cases present essentially the same or overlapping issues, they should be consolidated and tried together. (*Spector v. Superior Court* (1961) 55 Cal.2d 839, 844.) Here, both cases involve the same Plaintiff and the same insurance carrier (State Farm). Consolidation is warranted under both the law and the interests of justice. Additionally, the motion complies with the requirements of California Rules of Court, Rule 3.350.

Pursuant to California Rule of Court 3.350(b), case No. CU0001758 shall be the lead case, and all future filings shall be filed under that case number.

The current trial date of October 28, 2025, is vacated. Under California Rules of Court, Rule 3.1332(c), good cause exists to vacate the current trial date due to the addition of a new defendant. All discovery, expert and non-expert, and relevant cut-off dates are also vacated.

The current Case Management Conference of June 30, 2025 is continued to September 29, 2025 at 9:00 a.m. in Department 6 to select a new trial date.

3. CU0001970 Kevin Snider vs. Gerald James Demontmollin

Pursuant to C.C.P. § 1048(a), the unopposed motion to consolidate Case No. CU0001758 (Kevin Snider v. Linda Cavallaro) and Case No. CU0001970 (Kevin Snider v. Gerald James Demontmollin) is granted. Where cases present essentially the same or overlapping issues, they should be consolidated and tried together. (*Spector v. Superior Court* (1961) 55 Cal.2d 839, 844.) Here, both cases involve the same Plaintiff and the same insurance carrier (State Farm). Consolidation is warranted under both the law and the interests of justice. Additionally, the motion complies with the requirements of California Rules of Court, Rule 3.350.

Pursuant to California Rule of Court 3.350(b), case No. CU0001758 shall be the lead case, and all future filings shall be filed under that case number.

The current trial date of October 28, 2025, is vacated. Under California Rules of Court, Rule 3.1332(c), good cause exists to vacate the current trial date due to the addition of a new defendant. All discovery, expert and non-expert, and relevant cut-off dates are also vacated.

The current Case Management Conference of June 30, 2025 is continued to September 29, 2025 at 9:00 a.m. in Department 6 to select a new trial date.