SUPERIOR COURT, STATE OF CALIFORNIA
COUNTY OF SANTA CLARA

Department 10
Honorable Frederick S. Chung

Rachel Tien, Courtroom Clerk
191 North First Street, San Jose, CA 95113
Telephone: 408-882-2210

DATE: June 4, 2024 TIME: 9:00 A.M.

To contest the ruling, call (408) 808-6856 before 4:00 P.M.
Make sure to let the other side know before 4:00 P.M. that you plan to contest the ruling, in accordance with California Rule of Court 3.1308(a)(1) and Local Rule 8.E.

The courthouse is open: Department 10 is now fully open for in-person hearings, as of April 18, 2023. The court strongly prefers **in-person** appearances for all contested law-and-motion matters. For all other hearings (*e.g.*, case management conferences), the court strongly prefers either **in-person or video** appearances. Audio-only appearances are permitted but disfavored, as they cause significant disruptions and delays to the proceedings. Please use telephone-only appearances as a last resort.

Scheduling motion hearings: Please go to https://reservations.scscourt.org or call 408-882-2430 between 8:30 a.m. and 12:30 p.m. (Mon.-Fri.) to reserve a hearing date for your motion *before* you file and serve it. You must then file your motion papers no more than five court days after reserving the hearing date, or else the date will be released to other cases.

CourtCall is no longer available: Department 10 uses Microsoft Teams for remote hearings. Please click on this link if you need to appear remotely, and then scroll down to click the link for Department 10: https://www.scscourt.org/general_info/ra_teams/video_hearings_teams.shtml. Again, the court strongly prefers in-person or video appearances. Telephonic appearances are a sub-optimal relic of a bygone era.

Recording is prohibited: As a reminder, most hearings are open to the public, but state and local court rules prohibit recording of court proceedings without a court order. This prohibition applies to both in-person and remote appearances.

Court reporters: Unfortunately, the court is no longer able to provide official court reporters for civil proceedings (as of July 24, 2017). If any party wishes to have a court reporter, the appropriate form must be submitted. See https://www.scscourt.org/general_info/court_reporters.shtml.

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LINE #	CASE #	CASE TITLE	RULING
LINE 1	23CV425297	S.J. Bayshore Development, LLC v. The Province, LLC et al.	Demurrer: in accordance with the May 30, 2024 stipulation and order, the hearing on this demurrer is continued to September 17, 2024 at 9:00 a.m. in Department 10.
LINE 2	23CV425297	S.J. Bayshore Development, LLC v. The Province, LLC et al.	Motion to stay: in accordance with the May 30, 2024 stipulation and order, this hearing is continued to September 17, 2024 at 9:00 a.m. in Department 10.
LINE 3	23CV425297	S.J. Bayshore Development, LLC v. The Province, LLC et al.	Joinder in demurrer: in accordance with the May 30, 2024 stipulation and order, the hearing on the demurrer is continued to September 17, 2024 at 9:00 a.m. in Department 10.
LINE 4	23CV419198	Wells Fargo Bank, N.A. v. Alejandro Cyrus	Motion for summary judgment: notice is proper, and the motion is unopposed. The court finds that plaintiff has met its initial burden of showing that there is no triable issue of material fact regarding the causes of action, and that there is no defense to these causes of action. (Code Civ. Proc., § 437c, subd. (p).) The motion is GRANTED. Moving party shall prepare the formal order for the court's signature.
LINE 5	19CV360748	John Doe 6 v. Doe 1 et al.	Click on LINE 5 or scroll down for ruling.
LINE 6	20CV368215	People of the State of California et al. v. Ke Wang et al.	Click on LINE 6 or scroll down for ruling.

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LINE #	CASE #	CASE TITLE	RULING
LINE 7	22CV398311	Javier Jose Cruz v. Eric C. Hansen	Motion for leave to amend answer and file a first amended cross-complaint: notice is now proper, and the court has received no opposition to the motion. The court finds good cause under Code of Civil Procedure section 473, subdivision (a), to allow defendant to amend the pleadings and therefore GRANTS the motion. Defendant shall submit a proposed order for the court's signature.
LINE 8	22CV406751	Enrique Flores Maravilla v. Steven Justo Supetran et al.	Click on LINE 8 or scroll down for ruling.
LINE 9	23CV422659	Olegario Jay Lara v. Christina Rapisura	Click on LINE 9 or scroll down for ruling.

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Calendar Line 5
Case Name: *John Doe 6 v. Doe 1 et al.*
Case No.: 19CV360748

Plaintiff John Doe 6 moves to compel further responses to document requests from defendant Doe 1. This motion was originally noticed for a hearing on May 28, 2024. The clerk's office mistakenly advanced the hearing to May 14, 2024, when it advanced two other discovery hearings to that date pursuant to a stipulation and order. On May 13, 2024, the court posted a tentative ruling: (1) pointing out the apparent mistake, (2) stating that it was inclined to continue the hearing to June 4, 2024, and (3) ordering the parties to appear for the May 14 hearing in any event. On May 14, 2024, plaintiff's counsel appeared and argued the other two motions (against third parties), but defendant's counsel did not appear. The court instructed plaintiff's counsel to give notice to opposing counsel of the amended June 4, 2024 date, as noted on the minute order.

Notwithstanding the foregoing, the court has received no response to the motion from defendant Doe 1.

Having now reviewed Doe 1's responses to the document requests, the court agrees with Doe 6 that these responses are inadequate on their face. The responses purport to be made on behalf of "Redemption Church," which is not a party to this case, and they go on to state that because "Redemption Church" was not formed until 1991—and the allegations of sexual abuse in this case date back to 1989—that "Redemption Church" cannot have had any relationship with defendant Doe 2. These statements are completely non-responsive, and indeed, they are a non-sequitur. It is the court's understanding that Doe 1 is the Jubilee Christian Center of San Jose, Inc., and so the responses must be made on behalf of that entity. To the extent that "Redemption Church" is a successor in interest to Jubilee Christian Center of San Jose, Inc., then it must answer on that entity's behalf. It cannot hide behind the irrelevant notion that it did not yet exist in 1989. Such a response is plainly improper.

Accordingly, the court GRANTS the motion to compel and orders Doe 1 to provide substantive responses *on behalf of Doe 1* within 20 days of notice of entry of this order. In addition, the court GRANTS IN PART Doe 6's request for monetary sanctions, finding that Doe 1 and its counsel did not act with substantial justification in providing these deficient discovery responses and forcing this dispute to go to motion practice. Doe 1 and its counsel are jointly and severally responsible for **$1,060.00** in monetary sanctions (two hours at $500/hour plus a $60 filing fee) and must pay this amount within 30 days of notice of entry of this order.

IT IS SO ORDERED.

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Calendar Line 6
Case Name: *People of the State of California et al. v. Ke Wang et al.*
Case No.: 20CV368215

The People of the State of California and the County of Santa Clara ("Plaintiffs") move for the appointment of a receiver as to two properties at issue in this case: 0 Kalana Avenue in Morgan Hill and 598 Palm Avenue in Morgan Hill. These two properties are the subject of a preliminary injunction entered by this court (Judge Kirwan) against defendants Ke "Jason" Wang, Chunyan "Cathy" Ge, Woodside Capital LLC, Walnut Venture LLC, and Morgan Venture LLC on September 25, 2020, as well as a permanent injunction entered by this court (Judge Adams) against defendants Farming All Industries LLC ("FAI") and Carmichael Jones on March 27, 2024.[1] Plaintiffs originally made this request in an ex parte application in late April, which was opposed by the three LLC defendants mentioned above, plus Bluebird Communities LLC.[2] On May 1, 2024, the court (the undersigned) indicated that it was inclined to appoint a receiver, but that it did not understand why this had been brought as an ex parte application rather than a noticed motion. The court set a supplemental briefing schedule and a hearing for June 4, 2024.

In their supplemental opposition, the LLC defendants have now changed their arguments. In their earlier opposition, they argued unpersuasively that Plaintiffs should have made a greater effort to enforce the injunction against FAI and Jones—*e.g.*, by way of contempt proceedings—and that it would somehow be "unfair" to defendant Wang for a receiver's certificate to be recorded as a first priority lien over Wang's liens on these properties. Even while making these weak arguments, the LLC defendants failed to explain how they had any standing to object on behalf of co-defendants FAI, Jones, and Wang, none of whom had filed any response to the ex parte application. Now, the LLC defendants argue that because FAI and Jones have defaulted on their loans to Wang and have quitclaimed the two properties at issue back to Wang, Wang should be permitted an opportunity "to abate the alleged violations" on these properties.

In their supplemental reply, Plaintiffs contend that the transfer of ownership back from FAI and Jones to Wang does not change anything, because when Wang previously owned the properties (through his LLCs), he kept promising to abate the nuisances on these properties but failed to take any meaningful steps to do so. In addition, Plaintiffs note that Wang's current proposal includes "no hard deadlines" and no concrete obligations—it merely suggests that the court assume his plan will be "simpler, less expensive," "more efficient," and "effective." (Supplemental Opposition, p. 4:8-9 & 4:18-20.)

The court concludes that a receiver should be appointed, in light of the defendants' long history of failing to comply with the injunctions in this case. Indeed, the LLC defendants *still*

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[1] Judge Adams also entered a default judgment against FAI and Jones on April 3, 2024.
[2] It is not at all clear to the court who these four LLC defendants are or what their current role is in this case. Plaintiffs refer to them as "defunct" entities with "no interest in either Subject Property." (Supplemental Reply at p. 1, fn. 1.) The May 20, 2024 Declaration of Ke "Jason" Wang states that he owns these LLCs, and that Woodside Capital LLC and Walnut Venture LLC used to own the Kalana Avenue property and the Palm Avenue property, respectively, but he does not allege that these LLCs have had any interest in the properties since March 10, 2021. (Wang Declaration, ¶¶ 1-3, 5.) Accordingly, it is not obvious to the court that any of these entities have any standing to oppose the appointment of a receiver.

have not explained how they have any standing whatsoever to oppose the appointment of a receiver—first on behalf of FAI and Jones, when they filed their April 24, 2024 opposition brief, and now on behalf of Wang, the current owner of the properties, in their May 21, 2024 supplemental opposition brief. More critically, even if the court were to accept the LLC defendants' substantive arguments on behalf of Wang, the court agrees with Plaintiffs that Wang's "alternative plan" is no plan at all—it is merely a series of vague and amorphous promises that mirror the promises defendants made years ago, with nothing to back it up. At this point, any abatement of the violations on these properties has been delayed for years, and the LLC defendants have offered no reasoned basis to believe that a return of the properties to Wang's ownership will somehow cure these violations efficiently and effectively. Instead, the court is persuaded by Plaintiffs' argument that leaving matters up to Wang will only delay matters further.

Finally, the LLC defendants suggest that if the court "decides a receivership is appropriate," it should "provide strict limited instructions to the receiver," including the need for "Court approval of contracts [above a certain dollar amount]," "[l]imitations on expenditures, including attorneys' fees," and "sale of the Subject Properties without input from the receiver." (Supplemental Opposition, pp. 5:25-6:7.) The LLC defendants fail to identify any reasons why such restrictive and micro-managing instructions are needed here, which strike the court as undermining the very reasons for having a receiver in the first place. The court trusts that any experienced and professional receiver will not engage in any wasteful and unnecessary expenditure of funds. The receiver proposed by Plaintiffs, Richardson Griswold, has served as a receiver in multiple cases before this court.

In short, the court GRANTS Plaintiffs' motion to appoint a receiver.

Plaintiffs shall prepare the proposed order for the court's signature, in conformance with this ruling.

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Calendar Line 8
Case Name: *Enrique Flores Maravilla v. Steven Justo Supetran et al.*
Case No.: 22CV406751

Plaintiff Enrique Flores Maravilla ("Flores Maravilla") moves to set aside the court's dismissal of his case, after he failed to appear for the first two hearings in this case, including a hearing on an order to show cause re: dismissal for failure to appear. He argues that his failures to appear were the product of "inadvertence and mistake," because he was representing himself, does not understand court procedures, and is unable to read and write in English, given that his primary language is Spanish.

Defendants Steven Justo Supetran, Rogelio Paloma Supetran, and Luz J. Supetran ("Defendants"), who have not yet made a general appearance in the case, oppose the motion, disputing Flores Maravilla's factual assertions with speculative arguments. Even though Flores Maravilla filed his complaint in propria persona, Defendants note that they received a letter from an attorney, Steven A. Dinneen, who purported to represent Flores Maravilla before the complaint was filed, which means that "it is a fair conclusion that the Law Offices of Steven A. Dinneen prepared the Complaint on Plaintiff's behalf. It is further a fair and reasonable conclusion that at the time Plaintiff filed his Complaint, he had legal resources from whom he could avail himself [sic] about the court processes and his responsibilities thereto once he filed the Complaint." (Opposition, pp. 3:14-4:2.)

The court finds that these speculative arguments of Defendants are insufficient to overcome Flores Maravilla's plausible showing of "inadvertence and mistake" under Code of Civil Procedure section 473, subdivision (b). Accordingly, the court GRANTS the motion. The case is reinstated, and the court sets this matter for a further case management conference on October 22, 2024 at 10:00 a.m. in Department 10.

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Calendar Line 9
Case Name: *Olegario Jay Lara v. Christina Rapisura*
Case No.: 23CV422659

1. Background

Plaintiff Olegario Lara moves to enforce a settlement agreement under Code of Civil Procedure section 664.6. The settlement agreement provided that Lara would pay $200,914 to defendant Christina Rapisura, in exchange for which Rapisura would transfer her interest in 207 Palmer Drive, Los Gatos, California (their previously joint home) to Lara. A few weeks after the parties signed the agreement, however, Rapisura's former attorneys asserted a lien against the parties' settlement, based on attorney's fees allegedly still owed by Rapisura to them. Accordingly, it appears that the parties have been unable to move forward with their settlement.

2. The Parties' Contentions

In seeking to "enforce" the agreement, Lara actually proposes a modification to it: that instead of placing the $200,914 "in a trust account with Lun & Associates [Rapisura's current counsel]," as originally agreed, Lara could "deposit the $200,914 settlement amount with the Court." (Memorandum, pp. 6:2-5 & 2:18-19.) That way, the parties can "perform their obligations under the Settlement Agreement, and also allow for the resolution of the lien from Defendant's previous attorneys without holding up the settlement and in compliance with the requirements of the attorney fee lien." (*Id.* at p. 2:19-22.)

Rather than file an opposition brief, Rapisura submits a "response" in the form of a sworn declaration, asking that the motion be "denied," but that "Plaintiff's counsel . . . distribute the funds being held in trust forthwith." (Response, p. 3:24-25.) She does not propose anything specific about the transfer of the deed to the property.

3. Conclusion

On the one hand, Lara has nothing to do with the fee dispute between Rapisura and her former counsel, and so it seems unfair to Lara that the settlement should be held up because of this separate dispute. On the other hand, what Lara has proposed here is not exactly what the parties agreed to, and so his request falls outside the scope of what section 664.6 permits. The court has no authority to deviate from what the parties agreed to without the parties' *mutual* consent. (See *Jones v. World Life Research Institute* (1976) 60 Cal.App.3d 836, 840 ["the trial court is under a duty to render a judgment that is in exact conformity with an agreement or stipulation of the parties"].) Therefore, the court must deny the motion. The parties should try to reach a mutual agreement about how to resolve the case in light of the attorney's fees lien.

The motion is DENIED.

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