

Calaveras Superior Court Civil Law & Motion Calendar; Friday, May 21, 2021; Hon. David M. Sanders, Courtroom #2

9:00 AM 14CV40119 Ptff's Motion to Consolidate for Trial Only (14CV40365) 05/21/2014 08/02/2021 Settlement Conference

Ptff/Pet: Sarkis, Lawrence J.

Atty: Berliner Cohen

Def/Res: Angels Gun Club; Angels Gun Club; Verhalen, Dave

Atty: Porter Scott

Tentative Ruling: Although a complaint was filed on May 21, 2014, the matter was stayed for several years due to a Notice of Appeal filed by defendant Angels Gun Club on April 7, 2016. The order disqualifying defendant's counsel was vacated and set aside on December 18, 2019. Although no trial date has been set, plaintiff filed this motion on April 27, 2021.

Plaintiff's Request for Judicial Notice is GRANTED as to Exhibits 1, 2, and 3, pursuant to Evidence Code sections 452 and 453.

Code of Civil Procedure §1048(a) provides that "[w]hen actions involving a common question of law or fact are pending before the court, it may order a joint hearing or trial of any or all the matters in issue in the actions; it may order all the actions consolidated and it may make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay." In the matter at hand, the cases sought to be consolidated do not involve common questions of law or fact. The cases do not share a common transaction, incident, or wrongful act. Consolidation is appropriate when there are common issues of fact and overlapping issues of law.

Contrary to the numerous and expansive issues in case number 14CV40365, the single issue in case number 14CV40119 is limited to California Corporations Code section 7341 and whether plaintiff was wrongly terminated from Angels Gun Club. These two actions do not involve common questions of fact or law and the cases are inappropriate for consolidation. Additionally, although there is some overlap of parties between the two actions, the concurrence of parties is not complete. Therefore, based on the foregoing, plaintiff's motion for consolidation is DENIED.

The clerk shall provide notice of this ruling to the parties forthwith. Plaintiff shall prepare the formal order pursuant to Rule of Court 3.1312.

9:00 AM 14CV40365 Ptff's Motion to Consolidate for Trial Only (14CV40365) 09/19/2014 06/04/2021 Motion Hearings (2)
08/02/2021 Settlement Conference

Ptff/Pet: Bachelor, Kathi; Richards, David; Sarkis, Lawrence J.; Von Latta, Chuck

Atty: Berliner Cohen

Def/Res: Angels Gun Club; etal

Atty: Porter Scott; Levangie Law Group

Tentative Ruling: Although the original complaint was filed on September 19, 2014, this matter was stayed for several years due to a Notice of Appeal filed by defendant Angels Gun Club on April 7, 2016. The order disqualifying defendant's counsel was vacated and set aside on December 18, 2019. Although no trial date has been set, plaintiff filed this motion on April 27, 2021.

Plaintiffs' Request for Judicial Notice is GRANTED as to Exhibits 1, 2, and 3, pursuant to evidence Code sections 452 and 453.

Code of Civil Procedure §1048(a) provides that "[w]hen actions involving a common question of law or fact are pending before the court, it may order a joint hearing or trial of any or all the matters in issue in the actions; it may order all the actions consolidated and it may make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay." In the matter at hand, the cases sought to be consolidated do not involve common questions of law or fact. The cases do not share a common transaction, incident, or wrongful act. Consolidation is appropriate when there are common issues of fact and overlapping issues of law.

Contrary to the numerous and expansive issues in case number 14CV40365, the single issue in case number 14CV40119 is limited to California Corporations Code section 7341 and whether plaintiff was wrongly terminated from Angels Gun Club. These two actions do not involve common questions of fact or law and the cases are inappropriate for consolidation. Additionally, although there is some overlap of parties between the two actions, the concurrence of parties is not complete. Therefore, based on the foregoing, plaintiff's motion for consolidation is DENIED.

The clerk shall provide notice of this ruling to the parties forthwith. Plaintiff shall prepare the formal order pursuant to Rule of Court 3.1312.

9:00 AM 19CF13112 Plaintiff's Motion for Judgment on the Pleadings 12/26/2019 06/02/2021 Case Management Conference

Ptff/Pet: Wells Fargo Bank Na

Atty: Collection at Law Inc. Apc

Def/Res: Jones, Anthony

Atty: Pro Se

Tentative Ruling: Plaintiff filed the complaint on December 26, 2019, and defendant answered on September 4, 2020. On March 1, 2021, this Court ordered that the truth of the matters specified in Plaintiff's Request for Admissions (Set One) propounded on defendant deemed admitted. Defendant admitted he was issued the subject credit card, he was to repay the principal amount and finance charges, he received monthly statements, and he does not dispute the amount owed. Defendant filed this motion on March 25, 2021.

Plaintiff's Request for Judicial Notice was GRANTED as to Exhibits 1 and 2 pursuant to Evidence Code section 452(d) on March 29, 2021.

As this is a debt collection case in which plaintiff provided sufficient evidence as to the amount claimed, no viable affirmative defense has been asserted, and no objection has been filed, plaintiff's Motion for Judgment on the Pleadings is GRANTED.

Plaintiff is awarded the balance owed of \$7,994.74, and court costs in the amount of \$285, (\$225 filing fee and \$60 for the instant motion), for a total judgment of \$8,279.74.

The clerk shall provide notice of this ruling to the parties forthwith. The Court intends to sign the submitted proposed Order and plaintiff is directed to file a formal judgment in conformity with this ruling.

9:00 AM 19CF13112 Motion to Dismiss 12/26/2019 06/02/2021 Case Management Conference

Ptff/Pet: Wells Fargo Bank Na

Atty: Collection At Law Inc. Apc

Def/Res: Jones, Anthony

Atty: Pro Se

Tentative Ruling: Plaintiff filed the complaint on December 26, 2019, and defendant answered on September 4, 2020. Defendant filed this motion on May 11, 2021.

Defendant has not complied with Local Rule 3.3.7 enacted January 1, 2018, by failing to include the mandatory language in the notice of motion regarding the Court's tentative ruling system. Pursuant to said local rule, lack of compliance provides a specific ground to deny any such procedurally-deficient motion. Based solely upon defendant's failure to comply with Local Rule 3.3.7, this motion is DENIED without prejudice to refile, to the extent it otherwise is timely and appropriate pursuant to relevant statutes.

The clerk shall provide notice of this ruling to the parties forthwith. No further formal Order is required.

9:00 AM 19CV43909 Motion-Summary Judgment / Summary Adjudication 03/04/2019 06/23/2021 Case Management Conference

Ptff/Pet: Lane, David

Atty: Pro Se

Def/Res: Richardson, Dan Edward; Wuttke, Michael M

Atty: Pro Se; Boutin Jones Inc

Tentative Ruling: The complaint was filed on March 4, 2019 and an answer was filed on July 23, 2019. The cross-complaint against cross-defendant Hanford was filed July 6, 2020 and Hanford answered on September 10, 2020. This motion was filed on February 17, 2021.

Cross-defendant Hanford has not complied with Local Rule 3.3.7 enacted January 1, 2018, by failing to include the mandatory language in the notice of motion regarding the Court's tentative ruling system. Pursuant to said local rule, lack of compliance provides a specific ground to deny any such procedurally-deficient motion. Based solely upon cross-defendant Hanford's failure to comply with Local Rule 3.3.7, the motion is DENIED without prejudice to refile, to the extent it otherwise is timely and appropriate pursuant to relevant statutes.

The clerk shall provide notice of this ruling to the parties forthwith. No further formal Order is required.

9:00 AM 21CF13455

Defendant's Motion to Quash Service of Summons

03/12/2021

03/16/2022 OSC Hearing

Ptff/Pet: Bank of America Na

Atty: Harris And Zide

Def/Res: Vieira, Victor R

Atty: Pro Se

Tentative Ruling: Plaintiff filed the complaint on March 12, 2021. A proof of service was filed on May 3, 2021, stating defendant was served by substituted service on April 6, 2021. Defendant filed this motion on May 3, 2021.

Defendant has not complied with Local Rule 3.3.7 enacted January 1, 2018, by failing to include the mandatory language in the notice of motion regarding the Court's tentative ruling system. Pursuant to said local rule, lack of compliance provides a specific ground to deny any such procedurally-deficient motion. Based solely upon defendant's failure to comply with Local Rule 3.3.7, this motion is DENIED without prejudice to refile, to the extent it otherwise is timely and appropriate pursuant to relevant statutes.

The clerk shall provide notice of this ruling to the parties forthwith. No further formal Order is required.