

TENTATIVE RULINGS

DEPT C12

Judge Layne H. Melzer

Court Reporters: Official court reporters (i.e., court reporters employed by the Court) are **NOT** typically provided for law and motion matters in this department. If a party desires a record of a law and motion proceeding, it will be the party’s responsibility to provide a court reporter. Parties must comply with the Court’s policy on the use of privately retained court reporters which can be found at:

- [Civil Court Reporter Pooling](#) and, see also the court’s website at [Court Reporter Interpreter Services](#) for additional information regarding the availability of court reporters.

Tentative rulings: The court endeavors to post tentative rulings on the court’s website in the morning, prior to the afternoon hearing. However, ongoing proceedings such as jury trials may prevent posting by that time. Tentative rulings may not be posted in every case. Please do not call the department for tentative rulings if tentative rulings have not been posted. The court will not entertain a request to continue a hearing or the filing of further documents once a tentative ruling has been posted.

Submitting on tentative rulings: If all counsel intend to submit on the tentative ruling and do not desire oral argument, please advise the Courtroom Clerk or Courtroom Attendant by calling (657) 622-5212. Please do not call the department unless all parties submit on the tentative ruling. If all sides submit on the tentative ruling and so advise the court, the tentative ruling shall become the court’s final ruling and the prevailing party shall give notice of the ruling and prepare an order for the court’s signature if appropriate under Cal. R. Ct. 3.1312.

Non-appearances: If nobody appears for the hearing and the court has not been notified that all parties submit on the tentative ruling, the court shall determine whether the matter is taken off calendar or the tentative ruling becomes the final ruling. The Court also might make a different order at the hearing. (*Lewis v. Fletcher Jones Motor Cars, Inc.* (2012) 205 Cal.App.4th 436, 442, fn. 1.)

APPEARANCES: Department C12 conducts non-evidentiary proceedings, such as law and motion, remotely, by Zoom videoconference pursuant to CCP §367.75 and Orange County Local Rule (OCLR) 375. All counsel and self-represented parties appearing for such hearings must check-in online through the Court's civil video appearance website at <https://www.occourts.org/media-relations/civil.html> prior to the commencement of their hearing. Once the online check-in is completed, participants will be prompted to join the courtroom’s Zoom hearing session. Participants will initially be directed to a virtual waiting room pending the start of their specific video hearing. Check-in instructions and instructional video are available at <https://www.occourts.org/media-relations/aci.html>. The Court’s “Appearance Procedures and Information--Civil Unlimited and Complex” (“Appearance Procedures”) and “Guidelines for Remote Appearances” (“Guidelines”) also available at <https://www.occourts.org/media-relations/aci.html> will be strictly enforced. Parties preferring to appear in-person for law and motion hearings may do so pursuant to CCP §367.75 and OCLR 375.

PUBLIC ACCESS: The courtroom remains open for all evidentiary and non-evidentiary proceedings.

No filming, broadcasting, photography, or electronic recording is permitted of the video session pursuant to California Rules of Court, rule 1.150 and Orange County Superior Court rule 180.

TENTATIVE RULINGS

May 2, 2024

#	Case Name

<p>1</p>	<p>2018-01016830</p> <p>Balboa Capital Corporation vs. T&S Cable, LLC</p>	<p>Plaintiff Balboa Capital Corporation Motion to Amend Judgment</p> <p>Before the Court is Plaintiff/Creditor Balboa Capital Corporation’s Motion to amend the 2/6/19 Judgment to remove Defendant/Debtor Trent Schrolucke. Mr. Schrolucke filed for bankruptcy after judgment in this case was entered and this debt was discharged on 4/24/20. (See May Decl., ¶ 4, Exhs. B, C.)</p> <p>“A discharge order under the Bankruptcy Code: extinguishes the debtor's personal liability with respect to his creditor's claims; voids any judgment to the extent of the debtor's personal liability for a discharged debt; and enjoins the commencement or continuation of civil suits against the debtor personally to recover any discharged debt. (11 U.S.C. § 524(a); <i>Johnson v. Home State Bank</i> (1991) 501 U.S. 78, 84, fn. 5; <i>Ortiz v. Workers’ Comp. Appeals Bd.</i> (1992) 4 Cal.App.4th 392, 398; <i>Songer v. Cooney</i> (1989) 214 Cal.App.3d 387, 391; <i>Hurley v. Bredehorn</i> (1996) 44 Cal.App.4th 1700, 1704.)</p> <p>Under the bankruptcy court's order of discharge, the judgment is void to the extent it imposes personal liability on Trent Schrolucke and cannot be enforced against him. (11 U.S.C. § 524(a)(1).)</p> <p>Since the Judgment is void as to Trent Schrolucke, it is not clear to this Court that removal of his name from the Judgment is necessary. Moreover it is not clear that this Court even has jurisdiction to alter the judgment in the manner sought:</p> <p style="padding-left: 40px;">[18:521] Motion to Amend Judgment: Except as discussed below (¶ 18:521.1 ff.), once a judgment is <i>entered</i>, the trial judge loses the power to change it. [<i>Stevens v. Sup.Ct.</i> (1936) 7 C2d 110, 112, 59 P2d 988, 990 (per curiam)—“no power ... to set aside or amend for judicial error”]</p> <p style="padding-left: 40px;">If the entry conforms to the judgment as rendered, and there is no clerical error in the rendition or entry (¶ 18:500 ff.), the trial judge has no power to amend the judgment. [<i>In re Burnett's Estate</i> (1938) 11 C2d 259, 262, 79 P2d 89, 90]</p> <p style="padding-left: 40px;">But amendment of a judgment may be appropriate in certain circumstances: ***</p> <p style="padding-left: 40px;">b. [18:522] Alter ego of corporate defendant: Under appropriate circumstances, the trial court may amend its judgment to add as a judgment debtor someone who is the alter ego of a corporate defendant. This is based on the theory that the court is not amending the judgment to add a new defendant but is merely inserting the correct name of the real defendant: “Such a procedure is ... appropriate ... where it can be demonstrated that [the new defendants] in their capacity as alter ego of the corporation ... in fact had <i>control of the previous litigation</i>, and thus were virtually represented in the lawsuit.” [<i>NEC Electronics, Inc. v. Hurt</i> (1989) 208 CA3d 772, 778, 256 CR 441, 444 (emphasis added); see <i>Leek v. Cooper</i> (2011) 194 CA4th 399, 419, 125 CR3d 56, 71; <i>Toho-Towa Co., Ltd. v. Morgan Creek Productions, Inc.</i> (2013) 217 CA4th 1096, 1107-1110, 159 CR3d 469, 479-482]</p> <p>C. Other Post-Trial Motions, Cal. Prac. Guide Civ. Trials & Ev. Ch. 18-C</p> <p>The Court will hear from Balboa Capital on these issues.</p>
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<p>2</p>	<p>2021-01218019</p> <p>Bank Of America, N.A. vs. Rajoo</p>	<p>Plaintiff Bank Of America, N.A. Motion to Set Aside/Vacate Dismissal</p> <p>Plaintiff Bank of America, N.A.’s motion to set aside dismissal and for entry of judgment in the amount of \$13,421.85 against defendant Vijaykumarie Rajoo under Code Civ. Proc. § 664.6, is granted.</p> <p>The court’s order dismissing this action on 2/6/23 retained jurisdiction to enforce the parties’ stipulation for settlement. [ROA #31]</p> <p>Code Civ. Proc. § 664.6 provides: “If parties to pending litigation stipulate, in a writing signed by the parties outside the presence of the court or orally before the court, for settlement of the case, or part thereof, the court, upon motion, may enter judgment pursuant to the terms of the settlement. If requested by the parties, the court may retain jurisdiction over the parties to enforce the settlement until performance in full of the terms of the settlement.”</p> <p>The elements that must be met pursuant to Code Civ. Proc. § 664.6 are as follows:</p> <ol style="list-style-type: none"> 1. There is a valid and binding settlement agreement of all or part of the case; 2. The parties agreed to all material settlement terms; 3. If it is a written stipulation, the writing is signed by both parties; 4. The settlement agreement was made pending litigation; 5. A Motion to Enforce is made. <p>Code Civ. Proc. § 664.6.</p> <p>The record reflects the existence of an agreement reached by the parties in the form of the stipulation. [Zarco Decl., Ex. 1.]</p> <p>The parties’ agreement was for payments upon a certain schedule and, if those payments were not made, acceleration and entry of judgment in the total amount. The agreement also provided for Plaintiff’s recovery of fees and costs incurred obtaining judgment upon Defendant’s default. [<i>Id.</i>]</p> <p>After making payment totaling \$21,250, Defendant defaulted. [Zarco Decl., ¶ 6 and Ex. 2.]</p> <p>Plaintiff now seeks to set aside the dismissal and entry of judgment in the amount of \$13,421.85, reflecting the original \$34,064.27, plus court costs of \$541.11, \$6.47 e-filing fee, \$60.00 motion fee for the filing of this motion, less \$21,250.00 for payments made. [Zarco Decl., ¶ 7.]</p> <p>Plaintiff’s motion is granted. The court will enter the proposed judgment submitted by Plaintiff.</p> <p>Plaintiff to give notice.</p>
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<p>3</p>	<p>2018-01008598</p> <p>Briarwood Square, LP vs. Ojeda</p>	<p>Briarwood Square, LP Claim of Exemption - Wage Garnishment</p> <p>The claim of exemption by Judgment Debtor Ariana Ojeda (“Judgment Debtor”) to reduce the amount to be withheld from her paycheck to \$250 every two weeks is granted.</p> <p>Judgment Debtor met her burden to show her income is necessary for her and her 11 month old son’s support. (Code Civ. Proc., § 703.580, subd. (b).) The request by Judgment Creditors Briarwood Square, LP and Dauger Family Trust dated 4/4/1997 dba A and M Properties (collectively, “Judgment Creditors”) for \$515 to be withheld once per month is denied. Judgment Creditors also request any funds currently held be released. Judgment Creditors have not shown any funds are currently being held by the levying officer. To the extent any funds in excess of \$250 per two week pay period is held by the levying officer, that excess amount should be released to Judgment Debtor.</p> <p>Judgment Creditors shall give notice to Judgment Debtor. The Clerk shall transmit a certified copy of this Order to the levying officer pursuant to CCP section 706.105, subdivision (g).</p>
<p>4</p>	<p>2022-01251993</p> <p>Employers Assurance Company vs. Precision Waterjet Inc.</p>	<p>Defendant Precision Waterjet & Laser Inc. Motion to Set Aside/Vacate Default and Judgment</p> <p>The motion by defendant Precision Waterjet & Laser, Inc., erroneously sued as Precision Waterjet, Inc. (“Defendant”), for relief from the entry of default entered on 05/20/2022, (ROA 11), and from default judgment entered on 05/31/2022, (ROA 15), is granted.</p> <p>Defendant moves for relief from the default and default judgment entered against it on equitable grounds for extrinsic mistake. “Apart from any statute, courts have the inherent authority to vacate a default and default judgment on equitable grounds such as extrinsic fraud or extrinsic mistake.” (<i>Bae v. T.D. Service Co. of Arizona</i> (2016) 245 Cal.App.4th 89, 97.) In seeking relief, the moving party must: (1) “demonstrate that it has a meritorious case”; (2) “articulate a satisfactory excuse for not presenting a defense to the original action”; and (3) “demonstrate diligence in seeking to set aside the default once discovered.” (<i>Id.</i> at 100.)</p> <p>The Court finds Defendant has met all three requirements. Defendant proffers evidence that it was prevented from participating in these proceedings, or from fully presenting its case, by a former office manager, who failed to notify Defendant’s president and CEO of Plaintiff’s audit, (which led to the filing of the complaint), the service of the summons and complaint, and the service of the requests for entry of default and default judgment. The former office manager was later terminated for cause, but Defendant did not discover this lawsuit and the judgment until November 2023, when it ran a corporate credit report. Thereafter, Defendant’s counsel attempted unsuccessfully to contact Plaintiff’s counsel, before bringing this motion. Defendant contends it has a defense to this action, because the underlying audit is “generated based upon a larger number of employees and payroll than [Defendant] actually maintained for that policy period, in large part due to the fact that [Defendant’s] payroll was far small [sic] due to the Covid-19 pandemic.”</p>

		<p>Plaintiff has not opposed the motion and has not shown why it would be unduly prejudiced if the court were to grant the requested relief. The policy favoring a trial on the merits weighs in favor of granting this motion. (See <i>Iott v. Franklin</i> (1988) 206 Cal.App.3d 521, 526.)</p> <p>The Default (ROA 11) and Default Judgment (ROA 15) entered against Defendant are hereby vacated.</p> <p>Defendant shall file and serve its Answer within 15 days.</p> <p>Defendant shall give notice of the ruling.</p>
5	<p>2020-01142810</p> <p>Huntington Gardens Homeowners Association vs. Taverney</p>	<p>Plaintiff Huntington Gardens Homeowners Association Claim of Exemption - Wage Garnishment</p> <p>Judgment Debtor Jason Taverny's Claim of Exemption (Wage Garnishment) is granted.</p> <p>Judgment Debtor claims all earnings for his support. Judgment Creditor Huntington Gardens Homeowners Association opposes the claim of exemption on the grounds that the debtor's contributions into a 401k account and a company stock plan, \$450 and \$700, respectively, "are not life necessities." Even assuming for the sake of argument that these deductions are "disallowed" from the calculation of debtor's disposable earnings, (i.e., increasing his total monthly income by \$1,150), his "total monthly expenses" still far exceed his income. Judgment Creditor has not challenged these expenses, but the Court notes that a total of \$4,300 is attributed to housing and medical payments. (Debtor attests he has stage 4 cancer and is in a clinical trial for experimental treatment, which is not fully covered by insurance.) Even without the deductions for the 401k and company stock plan, this leaves debtor with only \$540 for the remainder of the categories (e.g., food, utilities and transportation). For the foregoing reasons, the Court grants the claim of exemption.</p> <p>The levying officer is directed to release any earnings held to the judgment debtor.</p> <p>Judgment Creditor shall give notice of the ruling.</p>
6	<p>2022-01240922</p> <p>Imperial Spa Fullerton, LLC vs. Sunrise Village Owner, LLC</p>	<p>Plaintiffs Imperial Spa Fullerton, LLC, Sharon Kea</p> <p>1. Motion to Be Relieved as Counsel of Record 2. Motion to Be Relieved as Counsel of Record</p> <p>***Off calendar per Moving Party***</p>

<p>7</p>	<p>2024-01372653</p> <p>Liberty Mutual Insurance Company vs. Zewiski</p>	<p>Petitioner Liberty Mutual Insurance Company Motion for Order to Stay Uninsured Motorist Arbitration</p> <p>Petitioner Liberty Mutual Insurance Company seeks an order staying arbitration of respondent Jeffrey Zewiski’s claims for uninsured motorist coverage under his employer’s policy with Petitioner, is denied.</p> <p>First, it does not appear that Respondent has been properly served with the petition as his counsel was served by email.</p> <p>The insurance policy was not provided, so the court cannot determine if the arbitration provision specifies the manner for service of “such petition and notice.” Thus, it is not clear that the Policy allows for service of the petition by email. (See Code Civ. Proc., § 1290.4, subd. (b) [petition and written notice of hearing “shall be served in the manner provided in the arbitration agreement for the service of such petition and notice,” or, if not specified, “in the manner provided by law for the service of summons in an action”]; see also Cal. Prac. Guide Alt. Disp. Res. at ¶ 5:312 [“If opposing parties are served in a manner other than personal service, the proof of service (or petition) should state the authority under CCP § 1290.4, [], for such manner of service”].)</p> <p>Under Code Civ. Proc., § 1290.4, subd. (b), service of the Petition by email was ineffective.</p> <p>Second, there is no authority for the court to stay the arbitration demanded by Respondent. (See Code Civ. Proc. §1281.2.) Rather, if the demand does not comply with Ins. Code §11580.2(f), the court could deny a petition by Respondent to compel arbitration.</p> <p>Any demand or petition for arbitration shall contain a declaration, under penalty of perjury, stating whether (i) the insured has a workers' compensation claim; (ii) the claim has proceeded to findings and award or settlement on all issues reasonably contemplated to be determined in that claim; and (iii) if not, what reasons amounting to good cause are grounds for the arbitration to proceed immediately. ...</p> <p>(Ins. Code, § 11580.2, subd. (f).)</p>
<p>9</p>	<p>2023-01368766</p> <p>Swift Financial, LLC as Servicing Agent for WebBank vs. Cosmo Makeup Academy, Inc., a California Corporation</p>	<p>Petitioner Swift Financial, LLC as Servicing Agent for WebBank Petition to Confirm Arbitration Award</p> <p>***Off Calendar – Notice of Stay Filed***</p>

11	2023-01358695 In Re: 742 Via Otono, San Clemente, CA 92672	Plaintiff Prestige Default Services, LLC Unresolved Claims Surplus funds of \$305,135.47 from the trustee’s sale of the real property located at 742 Via Otono, San Clemente, CA 92672 (the “property”) have been deposited with the court by petitioner Prestige Default Services, LLC. Five claims have been filed with the court: David Lin [ROA #12] for \$133,833.33, lien date TD 5/21/12. He also claims \$7,500.00 for interest. GexPro [ROA #19] for \$51,000.00, judgment date 10/2/13. GexPro also claims \$47,819.31 for interest. Solex Contracting Inc. [ROA #29] for \$451,598.81, judgment lien recorded 2/16/17. This debt was stipulated to be nondischargeable during Marc Ferris’ bankruptcy. Villagio at Rancho San Clemente Community Association [ROA #17] for \$15,395.88, lien date 7/15/21. Rancho San Clemente Community Association [ROA #15] for \$6,687.19, lien date 1/3/22. Solex’s claim shows that its judgment was stipulated to be nondischargeable. [ROA #29.] The Petition exhibits include a stipulated bankruptcy order for GexPro setting the secured amount of its claim at \$51,000.00, though it now claims additional interest. [Petition, Ex. 11b1.] From the petition, it appears there were a number of proceedings – bankruptcy, probate, and civil actions—potentially affecting the amounts of the liens claimed. The court will hear from counsel for each of the claimants as to what, if any, orders or payments bear on their claims. Subject to information provided at the hearing, the court is inclined to distribute the deposited proceeds as follows: \$141,833.33 to David Lin. \$51,000 to GexPro based on the bankruptcy court order. The remaining, \$112,302.14, to Solex on the basis of its \$451,598.81 nondischargeable judgment.
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<p>12</p>	<p>2024-01377041</p> <p>In Re: 9872 Stanford Avenue, Garden Grove, CA 92841</p>	<p>Petitioner National Default Servicing Corporation Motion re: Unresolved Claims</p> <p>Petitioner National Default Servicing Corporation seeks resolution of unresolved claims and the distribution of undistributed surplus proceeds of a trustee’s sale of real property located at 9872 Stanford Avenue, Garden Grove, California 92841 (“Subject Property”). Petitioner contends there are surplus finds in the amount of \$330,649.50 after all fees and expenses are paid.</p> <p>The Court notes the prior owner of the Subject Property, Hoang Anh Thi Nguyen, petitioned for bankruptcy protection on 3/17/2022, a motion for relief from stay was filed on 8/22/2022, and the case has not closed as of 10/11/2022. (Amended Petition, Attachment 5.) Petitioner shall be prepared to discuss:</p> <ol style="list-style-type: none"> 1) Whether Petitioner obtained relief from stay before proceeding with the foreclosure; 2) If Petitioner did not obtain relief from stay, the status of the bankruptcy petition; and 3) Whether the debt securing the Subject Property was discharged. <p>Assuming the foreclosure sale did not violate the automatic stay, the Court will accept the deposit and set a hearing for July 11, 2024 at 2:00 PM re distribution of the deposited funds. Petitioner will be charged with providing the notice of hearing required by CCP 2924j(d), which notice shall be served within 10 days after Petitioner’s deposit and shall (among other things) state that any and all claims must be submitted no later than 15 days prior to the scheduled hearing. Petitioner shall file proof of service no later than 30 days after the deposit of surplus proceeds with the Court. Petitioner shall be required to appear at the scheduled claims hearing.</p> <p>Court orders Petitioner to give notice.</p>
<p>13</p>	<p>2024-01383183</p> <p>In Re: Delaney</p>	<p>Petitioner Apollo Mathers, LLC Motion for Approval for Transfer of Structured Settlement Payment Rights</p> <p>No tentative ruling.</p> <p>The proposed transaction involves the transfer of “78 monthly life-contingent payments of \$3,000.00 beginning April 01, 2038 through and including September 01, 2044,” a total of \$234,000, for the sale price of \$14,000. Petitioner contends, despite the quotient of 13.68%, the terms of the proposed transaction are “fair and reasonable” and “will in line with the industry average for a similar life-contingent payment stream.” Petitioner states a copy of the seller’s (Connie Delaney) health report can be made available to the court for an in camera review during the hearing, and that such report “will allow the Court to see where Ms. Delaney’s life expectancy falls relative to the assigned payments, Ms. Delaney’s current health analysis, and how the current purchase price was arrived at.” (Milton Decl. at ¶¶ 20-22.) Petitioner shall be prepared to submit these materials for the court’s review at the hearing.</p>

14 2024-01376871

In Re: 435 West
Center Street #229,
Anaheim, CA 92805

Petitioner Clear Recon Corp

Motion re: Unresolved Claims and Deposit of Undistributed Surplus Proceeds

Before the court is the Petition to deposit undistributed surplus proceeds for unresolved claims after the foreclosure of the Deed of Trust (DOT) recorded on 3/30/09 for the real property commonly described as 435 West Center Street #229, Anaheim, CA 92805 by foreclosure Trustee, Petitioner Clear Recon Corp.

The DOT was executed by homeowner Jeffrey A Luzzi on 3/30/09.

The Trustee's sale took place on 2/24/23. The total sale price of the property was: \$486,000. There is a surplus in the amount of \$107,653.16 after the sale was finalized and the senior DOT paid off.

If, after due diligence, the trustee is unable to determine the priority of the written claims received or if the trustee determines that there is a conflict between potential claimants, he or she may file a declaration of the unresolved claims and deposit the undistributed proceeds, less any fees charged by the clerk, with the clerk of the superior court of the county where the sale occurred. (C.C. 2924j(c); see *CTC Real Estate Services v. Lepe* (2006) 140 C.A.4th 856, 861.)

Here, the Trustee has identified two potential claimants:

1. Harbor Lofts Community Association (an HOA) in the amount of \$42,400.39
2. Umpqua Bank (which merged with Sterling Savings Bank) for a lien dated 12/24/13 for an unpaid principal amount of \$742,102.72.

Trustee declares in the Attachment 11a to the Petition that it is unable to determine the priority of the claims. Harbor Lofts contends that, per its governing documents which contain lien priority and mortgage protection provisions, its liens are superior to that of Umpqua. If Umpqua's claim is paid first, there would be no remaining proceeds to pay Harbor Lofts. Petitioner asserts that it is not able to determine the correct priority.

Under subsection (c), the trustee may file a declaration of the unresolved claims and deposit the surplus funds with the clerk. The declaration shall "specify the date of the trustee's sale, a description of the property, the names and addresses of all persons sent notice pursuant to subdivision (a), a statement that the trustee exercised due diligence pursuant to subdivision (b), that the trustee provided written notice as required by subdivisions (a) and (d) and the amount of the sales proceeds deposited by the trustee with the court. Civ. Code, § 2924j(c).

Here, this is accomplished.

Further, the trustee shall submit a copy of the trustee's sales guarantee and any information relevant to the identity, location, and priority of the potential claimants with the court and shall file proof of service of the notice required by subdivision (d) on all persons described in subdivision (a). Civ. Code, § 2924j(c).

Here, this is accomplished.

Section 2924k(b) permits the Trustee to charge costs and expenses incurred for such items as mailing and a reasonable fee for services rendered in connection with the

		<p>distribution of the proceeds from a trustee's sale, including, but not limited to, the investigation of priority and validity of claims and the disbursement of funds. If the fee charged for services rendered pursuant to this subdivision does not exceed one hundred dollars (\$100), or one hundred twenty-five dollars (\$125) where there are obligations specified in paragraph (3) of subdivision (a), the fee is conclusively presumed to be reasonable. (<i>Id.</i>)</p> <p>Here, the Trustee asks for \$3,576.72 in attorney’s fees and the costs and \$435 filing fee. This is reasonable and granted.</p> <p>Thus, the excess funds to be deposited totals \$103,641.44 as indicated in Para. 16 of the Petition. The Petitioner is ordered to deposit this amount.</p> <p>Once that portion of the sale proceeds that cannot be distributed by due diligence is deposited with the court, the Trustee will be discharged of further responsibility for disbursement of the sale proceeds. (C.C. 2924j(c).)</p> <p>Once it is deposited, or the remainder is deposited, within 90 days after deposit with the clerk, the court must consider claims filed at least 15 days before the scheduled hearing date, and the Clerk must “serve written notice of the hearing by first-class mail on all claimants identified in the trustee's declaration at the addresses specified.” The court will then hear the matter and distribute the deposited funds to the claimants entitled thereto. (C.C. 2924j(d).)</p> <p>Claims should be filed with the Court and served at least 15 days before the upcoming hearing. (See <i>id.</i>)</p> <p>The Court notes that Claimant Harbor Lofts Community Association has already filed its claim and need not file anything further. (ROA 14).</p> <p>The Trustee is ordered to deposit \$103,641.44 in excess funds. The court will continue the Petition to July 11, 2024 at 2PM to adjudicate claims.</p> <p>The Court orders Petitioner to give notice.</p>
15	<p>In RE: 4548 Guava Avenue, Seal Beach, CA 90740</p>	<p>Quality Loan Service Corp.</p> <ol style="list-style-type: none"> 1. Motion to Deliver Surplus Funds 2. Motion Petition re: Unresolved Claims and Deposit of Undistributed Surplus proceeds of Trustee's Sale <p>Lili N Williams</p> <p>Before the court is the Petitioner Quality Loan Service Corp.’s Petition to deposit undistributed surplus proceeds for unresolved claims after the foreclosure of the Deed of Trust (DOT) for the real property commonly described as 4548 Guava Ave., Seal Beach CA 90740 and Claimant LiLi Nagle Williams’ claim to the excess funds in the amount of \$350,823.84.</p> <p>On 2/8/24, the Court ordered the excess funds deposited. (ROA 20, 26.) Petition is to confirm this was accomplished. The Court indicated that it would consider discharge after the deposit.</p> <p>The Court set the hearing on any claims to the excess funds and the Clerk also served</p>

		<p>notice pursuant to C.C. 2924j(d).</p> <p>The only claim filed is one by LiLi Nagle Williams. (ROA 20, “The Court will treat that motion as a Claim for purposes of that hearing.”)</p> <p>In relevant part, the DOT for this property was executed by homeowner Ada Marie Nagle on 4/4/17, and was recorded on 4/11/17. The most recent title to the property indicated that the home was owned Ada Marie Nagle, a widower.</p> <p>Claimant LiLi Nagle Williams, Ms. Nagle’s daughter, as Successor Trustee of her mother’s Trust, appeared in this matter. Ms. Williams advised the Court that she filed a Petition in the Orange County Superior Court to confirm that the Property at issue is actually in a Trust. (See 7.20.23 Order of Judge Belz.)</p> <p>On 2/8/24, the Court ordered Successor Trustee LiLi Nagle Williams to supplement her Claim with a copy of the Trust at issue and she has not complied. (ROA 35, 37.)</p> <p>The Court grants Successor Trustee Lili Nagle Williams’ claim to the excess proceeds of the sale of 4548 Guava Avenue, Seal Beach, California 90740 to be distributed to her. The Property was adjudicated part of the Trust at issue and Ms. Williams was confirmed as the Successor Trustee. (See 7.20.23 Order of Judge Belz.)</p> <p>Each claimant in a dispute under C.C. 2924j(c) and 2924j(d) has the burden to prove each fact essential to his or her claim. (<i>See MTC Financial v. California Dept. of Tax & Fee Administration</i> (2019) 41 C.A.5th 742, 749, 254 C.R.3d 485 [in dispute over surplus proceeds from foreclosure sale, grantee of first-in-time trust deed failed to carry burden of showing that trust deed was enforceable interest in property, where trust deed’s description of property was insufficient and ambiguous, and grantee offered no extrinsic evidence to resolve ambiguity].)</p> <p>Ms. Williams, as Successor Trustee, has met her burden to prove her claim to the excess proceeds in the amount of \$350,823.84.</p> <p>The Court orders those funds to be distributed to Ms. Williams as Successor Trustee.</p> <p>Ms. Williams is ordered to serve notice of this Order.</p>
16	American Express National Bank vs. Hueth	<p>American Express National Bank Motion to Set Aside/Vacate Dismissal</p> <p>On 4/11/2024, the Court continued the hearing on this motion to allow Plaintiff an opportunity to file an amended declaration, no later than five court days before the continued hearing date, to clarify an inconsistency regarding the amount Defendant has paid as discussed in paragraph 10 of counsel’s declaration. Plaintiff was also ordered to give notice. Plaintiff has not filed an amended declaration and has not filed a notice of continuance showing notice was provided to Defendant.</p> <p>The hearing on this motion is continued to June 13 2024 at 2:00 PM in Department C12. Counsel is ordered to file an amended declaration no later than five court days before the continued hearing date to clarify the inconsistency regarding the amount Defendant paid to Plaintiff.</p>

		Plaintiff shall give notice.
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