

“Civility allows for zealous representation, reduces clients’ costs, better advances clients’ interests, reduces stress, increases professional satisfaction, and promotes effective conflict resolution.” -- OCBA Civility Guidelines

Superior Court of the State of California  
County of Orange  
TENTATIVE RULINGS FOR DEPARTMENT C65  
HON. JULIANNE SARTAIN BANCROFT

**Date: Friday, April 18, 2025, 8:30 a.m.**

- All counsel and self-represented parties appearing for such hearings should 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. Check-in instructions and an instructional video are available on the court’s website. A party choosing to appear in person can do so by appearing in the courtroom on the date/time of the initial appearance. All hearings are open to the public. The courtroom doors are open.
- You must provide your own court reporter (unless you have a fee waiver and request one in advance).
- Call the other side and ask if they will submit to the tentative ruling. If everyone submits, then call the clerk. The tentative ruling will become the order. If anyone does not submit, there is no need to call the clerk. The court will hold a hearing. The court may rule differently at the hearing. (See *Lewis v. Fletcher Jones Motor Cars, Inc.* (2012) 205 Cal.App.4th 436, 442, fn. 1.)

#	Case Name	Tentative
30	FC Orange Associates v. Pham	OSC re Compliance and Dismissal. Motion to Enforce Stipulation.
31	Sawaged v. Gibson	Pretrial Conference.
32	Ameri v. GXP	Demurrer to Amended Complaint. OVERRULED.  Defendant argues the first amended complaint does not state a cause of action because it fails to attach either the lease or the 3-day notice. Plaintiff concedes this failure and has filed a notice of errata and requested that the court correct the first amended complaint to include those documents. The court will order Plaintiff to file a second amended complaint with the omitted documents attached, in order that the court’s file will have a complete copy of the complaint in one place.  Defendant argues the first amended complaint is uncertain. To the extent the alleged uncertainty is due to the lack of a lease or 3-day notice attached, the filing of the second amended complaint will resolve this issue. To the extent the alleged uncertainty is due to alleged ambiguity regarding damages, the court finds the first amended complaint is not uncertain.

		<p>Finally, Defendant has requested this court take judicial notice of the court files from this case and two other cases, as well as of the records of the California Secretary of State. Even if the specific documents for which judicial notice was sought were properly before this court (see California Rules of Court, rule 3.1306(c)), this court would only take judicial notice of the documents themselves, not their truth.</p> <p>PLAINTIFF SHALL FILE A SECOND AMENDED COMPLAINT ON OR BEFORE APRIL 23, 2025. THE SECOND AMENDED COMPLAINT SHALL BE IDENTICAL TO THE FIRST AMENDED COMPLAINT EXCEPT THAT IT SHALL ATTACH COPIES OF THE LEASE AND THE NOTICE WHICH WERE ATTACHED TO THE NOTICE OF ERRATA FILED ON APRIL 10, 2025. DEFENDANT SHALL FILE AN ANSWER TO THE SECOND AMENDED COMPLAINT ON OR BEFORE MAY 2, 2025.</p>
33	Tang v. Hamby	<p>Demurrer to Complaint. OVERRULED.</p> <p>Civil Code section 1946.2, subdivision (c) provides: "Before an owner of residential real property issues a notice to terminate a tenancy for just cause that is a curable lease violation, the owner <b><i>shall first give notice of the violation</i></b> to the tenant with an opportunity to cure the violation pursuant to paragraph (3) of <a href="#">Section 1161 of the Code of Civil Procedure</a>. If the violation is not cured within the time period set forth in the notice, <b><i>a three-day notice to quit without an opportunity to cure may thereafter be served</i></b> to terminate the tenancy." Defendant has not offered any authority that the second 3-day notice to quit is mandatory under the TPA. The court finds service of the notice was effective under Code of Civil Procedure section 1162.</p> <p>DEFENDANT SHALL FILE AN ANSWER TO THE COMPLAINT WITHIN FIVE (5) COURT DAYS.</p>
34	Catamount Properties 2018 v. Sanchez	<p>Demurrer to Complaint. OVERRULED.</p> <p>Based on the material within the four corners of the complaint, the court finds the complaint states a cause of action for unlawful detainer and has been verified.</p> <p>Motion to Strike Complaint. DENIED. The court finds the complaint was properly verified. The court finds the premises have been described with reasonable certainty, both by street address and by assessor's parcel number. Because a complaint must allege ultimate facts not evidentiary facts, defendant's argument that the complaint fails to set forth the facts on which the plaintiff seeks to recover fails.</p> <p>DEFENDANT TO ANSWER THE COMPLAINT WITHIN FIVE (5) CALENDAR DAYS.</p>

35	Ziade v. Holmes	<p>Motion to Compel Compliance with RFPs.</p> <p>The Court has not been advised that the bankruptcy stay has been lifted. Therefore, the hearing on this motion will be continued to April 25, 2025, at 8:30 a.m. in Department C65.</p>
36	Kubo v. Nilchian	<p>Motion to Set Aside/Vacate Order Renewing Restraining Order. DENIED.</p> <p>"A judgment or decree, when based upon a decision by the court . . . may, upon motion of the party aggrieved, be set aside and vacated by the same court, and another and different judgment entered, for either of the following causes, materially affecting the substantial rights of the party and entitling the party to a different judgment: 1. Incorrect or erroneous legal basis for the decision, not consistent with or not supported by the facts . . . ." (CCP § 663, subd. 1.)</p> <p>"Section 663 "is designed to enable speedy rectification of a judgment rendered upon erroneous application of the law to facts which have been found by the court or jury or which are otherwise uncontroverted." (<i>Forman v. Knapp Press</i> (1985) 173 Cal.App.3d 200, 203.) A section 663 motion is properly "made whenever the trial judge draws an incorrect legal conclusion or renders an erroneous judgment upon the facts found by it to exist." (<i>County of Alameda v. Carleson</i> (1971) 5 Cal.3d 730, 738; see <i>Plaza Hollister Ltd. Partnership v. County of San Benito</i> (1999) 72 Cal.App.4th 1, 14 ["section 663 is a remedy to be used when a trial court draws incorrect conclusions of law or renders an erroneous judgment on the basis of uncontroverted evidence"].)" (<i>Machado v. Myers</i> (2019) 39 Cal.App.5th 779, 799.) In ruling on a motion to vacate the judgment the court cannot "in any way change any finding of fact." (<i>Jones v. Clover</i> (1937) 24 Cal.App.2d 210, 212.)</p> <p>Only if the evidence is uncontroverted, and the court has erroneously applied the law to those uncontroverted facts, may the court grant a motion to vacate the judgment under CCP section 663. It is not clear whether defendant's motion meets this requirement of CCP section 663. Defendant seems to argue that the order renewing the restraining order was incorrect because it was based on "baseless, fabricated and irrelevant stories" and "fabricated, inflammable [sic], unfounded set of insinuations that are 'merely speculations.'" The motion to vacate therefore seems to argue the order renewing the restraining order was based on insufficient evidence, which would potentially be grounds for a motion for a new trial, not a motion to vacate.</p> <p>Assuming a motion to vacate is the proper way to challenge the court's order, the court finds that there was no erroneous</p>

application of law to the facts found by the court. Code of Civil Procedure section 527.6, subdivision (j)(1) authorizes the court to renew a civil harassment restraining order ***without any showing of further harassment by the respondent.*** But in this case, the petitioner offered evidence that, after the restraining order issued, respondent continued to engage in the acts of harassment, requiring her to call the police on three different occasions. And, while respondent moved out of his unit after that, he testified he still owns the property and intends to move back into it at some point. There was no erroneous application of the law to these undisputed facts.

Respondent contends this court erred by following the opinion of the appellate court. This court is bound to follow the appellate court's holding affirming the issuance of a restraining order against respondent. Under the doctrine of "law of the case," any principle or rule of law stated in an appellate court opinion that is "necessary" to the court's decision must be followed in all subsequent proceedings in the action, whether in the trial court or on a later appeal. (*Leider v. Lewis* (2017) 2 Cal.5th 1121, 1127; *Sargon Enterprises, Inc. v. University of Southern Calif.* (2013) 215 Cal.App.4th 1495, 1505-1506; *Santa Clarita Organization for Planning the Environment v. County of Los Angeles* (2007) 157 Cal.App.4th 149, 156.)

Respondent also argues this court erred by failing to consider his evidence of petitioner's alleged perjury due to the filing and later dismissal of an earlier request for a civil harassment restraining order. Respondent continues to argue this was a fraud on the court. In that case, No. 30-2023-01351705, petitioner Kubo filed a request for civil harassment restraining order; this court denied a request for a temporary restraining order; and petitioner voluntarily dismissed the action without prejudice. The court did not rule on the merits of petitioner's claim in case No. 30-2023-01351705, and this court has found that petitioner did not commit a fraud upon the court by failing to list the previous case when she filed the paperwork for the present case. None of this is grounds for vacating the order renewing the restraining order.

Respondent also argues this court erred by granting the renewal because Petitioner's written request for the renewal said the harassment by respondent was continued or continuous, when respondent had been living elsewhere for part of the time the restraining order was in place. The court had ample evidence before it that, when respondent was present after the restraining order was issued, the acts of harassment continued to occur.

Respondent contends that he did not commit the acts of harassment because (1) others in Petitioner's unit did not complain to the police or seek a restraining order, (2) the district attorney did not prosecute him, or (3) petitioner had

		not proven the acts of harassment were not caused by respondent's wife. None of these establishes this court erroneously applied the law to the facts found by the court in this case.
37	1501 NB v. Hawkey	Motion to Set Aside/Vacate Default and Default Judgment