

NOTICE:

To request limited oral argument on any matter on this calendar, you must call the Court at (916) 874-5487 (Department 47) by 4:00 p.m. the court day before this hearing and advise opposing counsel. If no call is made, the tentative ruling becomes the order of the court. Local Rule 2.02(D).

**Department 47
Superior Court of California
720 Ninth Street
Michael G. Virga, Judge
S. Jacobs/P. Banks, Clerk
None, Bailiff**

Friday, January 20, 2006, 9:30 AM

Item 1 **02AS00535 D.J. NELSON TRUST, ET AL VS. ATLANTIC RICHFIELD CO., ET AL**

Nature of Proceeding: Miscellaneous Motion

Filed By:

Defendants' motion for order granting applications of Robert E. Meadows and Charles C. Correll to appear pro hac vice, which is unopposed, is granted.

This minute order is effective immediately. No formal order pursuant to CRC rule 391 or other notice is required.

Item 2 **04AS01383 GARY ERVIN VS. LEE&MIDGE TAYLOR, ET AL**

Nature of Proceeding: Miscellaneous Motion

Filed By:

Plaintiff Gary Ervin's motion to transfer this action to the San Francisco County Superior Court is DENIED. Plaintiff's motion to have this case deemed complex litigation is also DENIED.

Plaintiff has filed at least three motions to transfer this action citing various grounds. In this motion, plaintiff seeks transfer on the ground that he can not get a fair trial in Sacramento County. In support of his claim he asserts that various papers which he filed were removed from the court's files. Defendant City of Roseville opposes the motion asserting that these allegations standing alone do not meet the rigorous standard applicable to such motions. The court is persuaded that plaintiff's allegations do not establish that he is unable to get a fair trial in Sacramento County. Accordingly, his motion to change venue must be denied.

Plaintiff's motion to have the instant action deemed to be complex litigation within the meaning of California Rules of Court, Rules 1800 et seq. is denied. The court does not find that the case qualifies under the criteria set forth in California Rules of Court.

Item 3 **04AS01383 GARY ERVIN VS. LEE&MIDGE TAYLOR, ET AL**

Nature of Proceeding: Miscellaneous Motion

Filed By:

See ruling in item no. 2.

Item 4 **04AS01383 GARY ERVIN VS. LEE&MIDGE TAYLOR, ET AL**

Nature of Proceeding: Miscellaneous Motion

Filed By:

See ruling in item no. 2.

Item 5 **04AS01383 GARY ERVIN VS. LEE&MIDGE TAYLOR, ET AL**

Nature of Proceeding: Motion To Change Venue

Filed By:

See ruling in item no. 2.

Item 6 **04AS03604 JAMES HILL VS. RICHARD BURTON**

Nature of Proceeding: Motion To Continue Trial

Filed By:

Good cause appearing, and no opposition having been filed, plaintiff's motion to continue trial and settlement conference currently set for February 6 and January 30, respectively, is GRANTED. This matter shall be placed upon the February 6, 2006 trial setting calendar to be heard at 10:00 a.m. in Department 47.

The court finds good cause to continue based upon the stipulation of the parties and plaintiff's counsel's trial conflicts.

Item 7 **05AS02670 JAE PROPERTIES, INC. VS. CARL DEXTER, ET AL**

Nature of Proceeding: Motion For Leave To Intervene

Filed By:

Good cause appearing, and plaintiff having filed a statement of non-opposition, proposed Intervenor Frank Allen's motion to intervene as a party plaintiff is GRANTED. The complaint in intervention shall be filed upon payment of the requisite filing fee.

Proposed intervenor asserts a one-half interest in property on which plaintiff JAE Properties Inc. has placed a lis pendens. Intervenor seeks intervention in order to file an action to ex punge the lis pendens and for damages relating to its filing. Plaintiff has indicated that it does not oppose the motion.

Item 8 **06AS00010 ROBERT L. MELBYE, ET AL VS. JP MORGAN CHASE BANK, ET AL**

Nature of Proceeding: Motion To Consolidate

Filed By:

Plaintiff Robert L. Melbye and Sherry H. Melbye, Trustees of the Melbye Revocable Living Trust's motion to consolidate Melby v. JP Morgan Chase, No. 06AS00010, a declaratory and injunctive relief action, with JP Morgan Chase v. Peterson, No. 04UD07467, an unlawful detainer action, is DENIED.

A motion to consolidate is left to the sound discretion of the trial court. In this case the court finds that consolidation is not appropriate as the two cases involve different parties, different legal theories and are at different stages.

The unlawful detainer action was transferred to Department 47 by Commissioner Wong on December 2, 2005. It is now set for settlement conference and trial on January 24, 2006. The civil action was filed on January 3, 2006 and is currently being served upon the opposing parties.

The civil action brought by plaintiff Melbye seeks to prevent sale of the subject property to a third party purchaser on the ground defendants Chase et al. failed to give various notices and follow other procedures in foreclosing on the property in April of 2004. Similiar claims were adjudicated against unlawful detainer defendant Peterson in a civil action that he previously bought in this court. The unlawful detainer action involves only the issue of the right to immediate possession of the property as between plaintiff Chase et al. and defendant Peterson.

Finally, the two actions involve few common parties, notably JP Morgan Chase et al. Defendant Peterson in the unlawful detainer action is not a party to the civil action. Similiarly, plaintiff Melbye in the civil action is not a party to the unlawful detainer action. For the foregoing reasons, the court finds that consolidation is not appropriate in this case.