

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
Roland L. Candee, Judge
S. Jacobs/P. Banks, Clerk
None, Bailiff**

Tuesday, January 24, 2006, 9:30 AM

Item 1 **03AS01179 MARTHEA CALDWELL VS. DONALD MASUDA, ET AL**

Nature of Proceeding: Motion To Bifurcate

Filed By:

Defendant Masuda's motion to bifurcate the statute of limitations defense pled in his answer and try it first is DENIED without prejudice to its reassertion before the trial judge. The court finds that the trial judge is in the best position to determine the order in which issues are presented at trial. The trial judge can make this determination upon his or her own motion at any time.

Item 2 **04AS00089 COUNTY OF SANITATION, ETC. VS. U.S. NATIONAL LEASING, ET ALA**

Nature of Proceeding: Motion To Continue Trial

Filed By:

Good cause appearing, and the parties having stipulated thereto, plaintiff County Sanitation District No. 1. of Sacramento County's motion to continue trial and settlement conference currently scheduled for March 8 and March 27, respectively is GRANTED. This matter shall be placed upon the February 21, 2006 trial setting calendar to be heard at 10:00 a.m. in Department 47. The April settlement conference and trial dates requested by the parties are not available.

The court finds good cause to continue based upon the stipulation of the parties and the fact that counsel for various parties have conflicts with the existing dates.

Item 3 **04AS00405 BARBARA CHAYDEZ VS. BONNIE GENTRY**

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 scheduled for January 26 and February 6, respectively, is GRANTED. This matter shall be placed upon the February 21, 2006 trial setting calendar to be heard in Department 47 at 10:00 a.m.

The court finds good cause to continue based upon plaintiff's counsel's trial conflicts.

Item 4 **04AS01881 SEAN ADDISON ESPLEY, ET AL VS. SUPERB ENTERPRISES, ET AL**

Nature of Proceeding: Motion To Continue Trial

Filed By:

Good cause appearing, and the parties having stipulated thereto, defendant Superb Enterprises' motion to continue trial currently set for April 24, 2006 is GRANTED. Trial in this matter shall be continued to May 22, 2006 at 8:30 a.m. in Department 47.

The court finds good cause to continue based upon the stipulation of the parties and defendant's witnesses unavailability.

Item 5 **04AS03485 WILLIAM BARKSDALE, ET AL VS. DUNMORE HOMES, LLC ET AL.**

Nature of Proceeding: Miscellaneous Motion

Filed By:

Defendant Dunmore Development Company filed a motion in Department 53 seeking to vacate the current March 27, 2006 trial date in this action with respect to the nine plaintiffs subject to its motion to compel arbitration, the denial of which has now been appealed. Defendant asserts that the appeal stays all further proceedings with respect to the nine plaintiffs subject to the appeal under CCP 916 and Prudential-Bache Securities v. Downs (1988) 201 Cal. App. 3rd 924, 926. Plaintiffs do not disagree with this position. Defendant, however, also seeks to vacate the trial date as to the remaining plaintiffs on the ground that the issues raised by these plaintiffs are very similar to those raised by the nine plaintiffs covered by the stay and that it would be costly and inefficient to potentially have two trials involving these same issues. Plaintiffs object to a continuance of the trial date for those not effected by the appeal. In an order dated December 27, Judge Van Camp sitting in Department 53 transferred these matters to Department 47 for determination.

The court finds that the filing of the appeal stays all further proceedings with respect to the nine plaintiffs directly effected by the appeal. (CCP 916; Prudential-Bache Securities v. Downs, supra at 926). The court finds that the action is not stayed as to the other parties. The court, however, declines to sever the case so as to permit trial with regard to the parties not subject to the appeal at this time. The court finds that severance could lead to an inefficient use of the court's resources and those of the parties and to the possibility of inconsistent verdicts. Accordingly, the court orders that the March 27 trial date is hereby vacated. The court sets a status conference for May 3, 2006 at 9:30 a.m. in Department 47. The parties are directed to file papers five court days before that date to apprise the court of the status of the appeal and all other matters which might effect the setting of a new trial date.

Item 7 **05AS05466 PATRICIA SANDFOR VS. CATHERINE R. COLE, ET AL**

Nature of Proceeding: Motion To Consolidate

Filed By:

Plaintiff Patricia Sandfor's motion to consolidate Sandifor v. Cole, No. 05AS05466, a civil action with In re Estate of Grace C. Ciccarelli, No. 05PR00691, a probate action is DENIED as premature.

Defendants Cole and Johnson have not yet formally appeared in the civil action. They

indicate in their opposition papers herein that they intend to demurrer to the civil complaint on various grounds. They assert that until the pleading stage is resolved, the court really will not be able to fully evaluate whether consolidation is appropriate. The court finds this argument persuasive. The decision to consolidate actions is one left to the sound discretion of the trial court. Until the pleading stage is complete the court will not be in a position to accurately assess the causes of action actually presented in the cases and whether such causes merit consolidation.