

**TENTATIVE RULINGS
LAW & MOTION CALENDAR
Friday, October 3, 2025 9:30 a.m.
Courtroom 20 – Visiting Commissioner Robert Q. Warshawsky
3055 Cleveland Avenue, Santa Rosa**

TO JOIN “ZOOM” ONLINE:

Meeting ID: 161-646-8743

Passcode: 026215

<https://sonomacourt-org.zoomgov.com/j/1616468743>

TO JOIN “ZOOM” BY PHONE:

By Phone (same meeting ID and password as listed above):
(669) 254-5252

The following tentative rulings will become the ruling of the Court unless a party desires to be heard. If you desire to appear and present oral argument as to any motion, it will be necessary for you to contact the department’s Judicial Assistant by telephone at **(707) 521 -6729** by 4:00 p.m. on the day before the hearing. Any party requesting an appearance must notify all other opposing parties of their intent to appear.

1. 23FL00244 County of Sonoma vs Taylor

APPEARANCES REQUIRED. Respondent and Counsel may appear via Zoom.

Respondent is to provide written documentation of the El Dorado Superior Court order dated July 14, 2025, to this Court and all parties.

2. 24FL02014 Velazquez Rodriguez/Navarro Dissolution

Motion to Set Aside Judgment per CCP 473(b) GRANTED.

Facts

Petitioner filed this action for dissolution of marriage with minor children (the “Children”) on October 2, 2024.

Sonoma County Department of Child Support Services (“DCSS”) intervened on November 8, 2024 and filed a substitution of payee for support, by which it substituted in as the payee on the grounds that it was paying child support and medical support to Petitioner.

Petitioner filed a proof of service of the summons and petition on November 12, 2024. The proof of service shows personal service on Respondent taking place on October 6, 2024 at an address in Las Vegas, Nevada. Respondent had not appeared and the same day Petitioner obtained entry of default against him.

DCSS filed a supplemental complaint with paternity on November 14, 2024. It then filed a proof of service showing substituted service on Respondent at an undisclosed residential address, taking place on December 19, 2024. On February 19, 2025, DCSS also requested entry of default against Respondent and the court entered the default on that date. Judgment was entered regarding parental obligations on March 5, 2024.

Motion

In its Request for Order and Motion to Set Aside Judgment per CCP 473(b), DCSS moves to set aside the default and judgment against Respondent on the basis that it has discovered that neither it nor the court ever had jurisdiction over Respondent. It explains that it has discovered that Petitioner served Respondent in Nevada; Respondent had never lived in California, never visited California, had no children in California and in short has no ties to California; the Children were born in Mexico and lived in Mexico and Nevada prior to Petitioner taking them with her to California. It seeks an order based on mistake, inadvertence, surprise, or excusable neglect on the grounds that it mistakenly believed there to be jurisdiction over Respondent, had it known the information now available to it, it would never have filed its complaint or requested default and judgment, and the default and judgment are as a result defective.

There is no opposition.

Applicable Authority

According to the Family Law Rules of the California Rules of Court (“CRC”) 5.2(d), and Family Code (“Fam. Code”) section 210, provisions applicable to civil actions generally apply to

proceedings under the Family Code unless otherwise provided. This includes the rules applicable to civil actions in the California Rules of Court and the Code of Civil Procedure (“CCP”). See, e.g., *In re Marriage of Boblitt* (2014) 223 Cal.App. 4th 1004, at 1022 (discovery); *In re Marriage of Zimmerman* (2 Dist. 2010) 183 Cal.App.4th 900, at 910-911 (discussing the applicability of Code of Civil Procedure section 473 when a party seeks relief from orders in family proceedings).

Relief from orders, due to default or otherwise, in family-law cases may be based on the grounds generally applicable to motions to vacate under CCP section 473, or, after that deadline, only in accordance with the grounds in Fam. Code sections 2121, 2122, and 3691. *In re Marriage of Zimmerman* (2 Dist. 2010) 183 Cal.App.4th 900, at 910-911 (Fam. Code section 2122 governs relief from judgment while Fam. Code section 3691 governs relief from support orders other than judgment); see also *In re Marriage of Tavares* (2007) 151 Cal.App.4th 620.

CCP section 473(b) allows parties to move the court to set aside dismissals or defaults. This motion must normally be made within a reasonable time, not to exceed 6 months from the date the order was entered. CCP section 473(b). The motion “shall be accompanied by a copy of the answer or other pleading proposed to be filed... otherwise the application shall not be granted...” CCP section 473(b).

An order setting aside the default is discretionary where based on mistake, inadvertence, surprise, or excusable neglect. *Id.* There is also a policy in favor of hearing cases on their merits and the motion to vacate should be granted if the moving party shows a credible, excusable explanation. *Elston v. City of Turlock* (1985) 38 Cal.3d 227. The provision should be liberally construed in order to afford relief. See, e.g., *Goodson v. Bogerts, Inc.* (1967) 252 Cal.App.2d 32; *Hansen v. Hansen* (1961) 190 Cal.App.2d 327; *Reed v. Williamson* (1960) 185 Cal.App.2d 244.

The provision of this section authorizing court to relieve party from a judgment or order resulting from mistake, inadvertence, surprise or excusable neglect is remedial in its nature and is to be liberally construed so as to dispose of cases on their merits. *Ramsey Trucking Co. v. Mitchell* (1961) 188 Cal.App.2d Supp. 862.

“Surprise” is “some condition or situation in which a party... is unexpectedly placed to his injury, without any default or negligence of his own, which ordinary prudence could not have guarded against.” *Credit Managers Ass’n of So. Calif. v. National Independent Business Alliance* (1984) 162 Cal.App.3d 1166, 1173.

“Excusable neglect” comes down to whether the moving party has shown a reasonable excuse for the default. *Davis v. Thayer* (1980) 113 Cal.App.3d 892, 905. The moving party must show that the default would not have been avoided through ordinary care. *Elms v. Elms* (1946) 72 Cal.App.2d 508, 513. The test ultimately is thus one of reasonable diligence. *Jackson v. Bank of America* (1983) 141 Cal.App.3d 55, 58.

A court of this state may exercise jurisdiction on any basis not inconsistent with the Constitution of this state or of the United States. CCP section 410.10

The basic standard for personal jurisdiction is that the Defendant must have minimum contacts with the forum so that exercising jurisdiction does not offend “traditional notions of fair play and substantial justice.” *International Shoe Co. v. Washington* (1945) 326 U.S. 310, 316. The court must assess each defendant’s contacts with this state individually. *Taylor-Rush v. Multitech Corp.* (1990) 217 Cal.App.3d 103, 114. In other words, the court cannot exercise jurisdiction over officers of a corporation simply because it may have jurisdiction over the corporation. *Mihlon, supra*, 715.

A California court may exercise personal jurisdiction over a nonresident defendant if the defendant’s activities impact California on a “substantial, continuous and systematic” basis, that nonresident is subject to general or unlimited jurisdiction. It may be sued on any cause of action, even if unrelated to their activities within the state. *Cornelison v Chaney* (1975) 16 Cal. 3d 143, 147.

With respect to actions regarding parentage and child support specifically, Fam. Code section 7602 in the Uniform Parentage Act states, “The parent and child relationship extends equally to every child and to every parent, regardless of the marital status of the parents.” Fam. Code section 7620, however, specifically governs both venue and jurisdiction in California regarding actions to determine parentage and child support under the Uniform Parentage Act. Section 7620 subdivision (a) sets forth the bases for personal jurisdiction in California and states, in full,

A person who has sexual intercourse or causes conception with the intent to become a legal parent by assisted reproduction in this state, or who enters into an assisted reproduction agreement for gestational carriers in this state, thereby submits to the jurisdiction of the courts of this state as to an action brought under this part with respect to a child who may

have been conceived by that act of intercourse or assisted reproduction, or who may have been conceived as a result of that assisted reproduction agreement.

The motion is persuasive. DCSS is correct that, based on the information presented, neither it nor the courts of California had any jurisdiction over Respondent at any time. This is correct with respect to both the specific law governing personal jurisdiction in cases such as this, and general law governing personal jurisdiction. The court further notes that the primary beneficiary of the requested relief is not the moving party but Respondent.

Conclusion

The court GRANTS the motion. The prevailing party shall prepare and serve a proposed order consistent with this tentative ruling within five days of the date set for argument of this matter. Opposing party shall inform the preparing party of objections as to form, if any, or whether the form of order is approved, within five days of receipt of the proposed order. The preparing party shall submit the proposed order and any objections to the court in accordance with California Rules of Court, Rule 3.1312.

END OF TENTATIVE RULINGS