TENTATIVE RULINGS
LAW & MOTION CALENDAR
Friday, June 12, 2026 3:00 p.m.
Courtroom 17– Hon. Jeanine Nadel for the Hon. Jane Gaskell
3035 Cleveland Avenue, Santa Rosa

PLEASE NOTE: In accordance with the Order of the Presiding Judge, a party or representative of a party may appear in Department ~~17~~ 19 in person or remotely by Zoom, a web conferencing platform.

If the tentative ruling is accepted, no appearance is necessary via Zoom unless otherwise indicated.

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, **YOU MUST NOTIFY** Judge Gaskell's Judicial Assistant by telephone at **(707) 521-6723**, and all other opposing parties of your intent to appear, and **whether that appearance is in person or via Zoom**, by ***4:00 p.m. the court day immediately preceding the day of the hearing.***

THE MATTERS BELOW ARE ASSIGNED TO VISITING JUDGE JEANINE NADEL

ANY REQUEST FOR ORAL ARGUMENT WILL BE HEARD IN DEPT. 19 WITH DEPT. 19's ZOOM INFORMATION

TO JOIN ZOOM ONLINE
Courtroom 19
Meeting ID: 160-421-7577
Password: 410765
https://sonomacourt-org.zoomgov.com/j/1604217577

TO JOIN ZOOM BY PHONE
By Phone (same meeting ID and password as listed for each calendar):
+1 669 254-5252 US (San Jose)

24CV04542, JPMorgan Chase Bank N.A. v. Burns

JP Morgan Chase Bank N.A. ("Plaintiff") moves the Court to vacate the dismissal entered on July 2, 2025, pursuant to C.C.P. section 664.6 for Defendant Lee Burns' failure to remit payment in accordance with the parties' Stipulation Agreement. The *unopposed* motion is **GRANTED** and judgment shall be entered in the amount of **$3,800.00** against Defendant for the outstanding debt.

I. FACTUAL & PROCEDURAL HISTORY

On August 2, 2024, Plaintiff filed the Complaint against Defendant for debts owed to Plaintiff. In October 2024, the parties executed a Stipulation Agreement where Defendant would make monthly payments to Plaintiff, totaling $4,615.00 to satisfy the judgment amount. (See Plaintiff's Request for

Judicial Notice, Exhibit A ["Stipulation Agreement"].) Accordingly, Plaintiff filed a notice of settlement on June 24, 2025, and the Court dismissed the action on July 2, 2025.

In accordance with the Stipulation Agreement, the judgment amount is $4,615.00 ($5,795.96 less $1,180.96 for payments received after the filing of the Complaint). (Stipulation Agreement, ¶ 2.) Judgment was stayed for Defendant's timely payments of the following: one-time payment of $215.00 before October 28, 2024, and 22 monthly payments of $200.00 beginning November 2024. (Stipulation Agreement, ¶¶ 3–4.) Defendant's last monthly payment received was on January 5, 2025, and therefore has defaulted on his monthly payments under the Stipulation Agreement. (Langedyk Decl., ¶ 4.) The current balance owed is $3,800.00 ($5,795.96 less $1,995.96 for Defendant's total payments to date). (Langedyk Decl., ¶¶ 5–6.) Plaintiff now moves the Court to vacate the dismissal, enforce the terms of the Stipulation Agreement, and enter judgment against Defendant for $3,800.00. Defendant was served with the moving papers on February 18, 2026, and with amended papers containing the June 12, 2026, hearing date on March 30, 2026, but has failed to oppose the motion. (See Proofs of Services, dated February 18, 2026, and March 30, 2026, respectively.)

II. DISCUSSION

A. Governing Law

If parties to a pending litigation agree to sign a written stipulation for settlement of the case, then the court may upon noticed motion enter judgment pursuant to the terms of the settlement. (C.C.P. § 664.6(a).) The court may retain jurisdiction over the parties to enforce the settlement until performance in full of the terms of the settlement if the parties request it. (*Ibid*.) "Section 664.6 was enacted to provide a summary procedure for specifically enforcing a settlement contract without the need for a new lawsuit." (*Weddington Productions, Inc. v. Flick* (1998) 60 Cal.App.4th 793, 809.)

B. Plaintiff's Request for Judicial Notice

The court may take judicial notice of facts and propositions that are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy. (Evid. Code § 452(h).) The court must take judicial notice of any matter requested by a party, so long as it complies with the requirements under Evidence Code section 452. (Evid. Code § 453.)

Plaintiff requests judicial notice of the Stipulation in this action pursuant to Evidence Code sections 452 and 453. The request is **GRANTED**.

C. Defendant has Defaulted on his Payment Obligations under the Stipulation Agreement

Plaintiff has sufficiently demonstrated that the parties entered into a valid written and signed Stipulation Agreement, under which Defendant continues to owe $3,800.00 after he defaulted on his payment obligations. Per the motion, the parties' Stipulation, and C.C.P. Section 664.6, the Court finds it reasonable to enter judgment in the amount of $3,800.00 against Defendant, for the remaining debt owed.

III. CONCLUSION

The motion is **GRANTED** pursuant to C.C.P section 664.6. The July 2, 2025, dismissal is **VACATED**. Judgment shall be entered in the amount of **$3,800.00** against Defendant for the outstanding debt. Unless oral argument is requested, the Court will sign the proposed order and proposed judgment lodged with the motion with modifications.

24CV05613, Turchin v. Rinkleib

Defendant Randy Rinkleib ("Defendant Rinkleib") moves the Court for an order setting aside the defaults of LZR Ultrabright, LZR7, Inc., and Quantex pursuant to C.C.P. 473(d) or to strike excess relief from the default judgment proceedings. The motion is **DENIED**.

I. FACTUAL & PROCEDURAL HISTORY

On September 23, 2024, Plaintiff Curtis G. Turchin ("Plaintiff") filed the Complaint against Defendant Rinkleib and Defendant entities for various causes of action related to Defendant Rinkleib's wrongful taking of Plaintiff's ownership interest in LZR Ultrabright. The Complaint seeks a declaratory judgment, damages according to proof, exemplary damages, an accounting, costs, interest, attorneys' fees, and other relief the Court deems proper. (See Complaint, 7:20–8:4.) Plaintiff served Quantex and November 1, 2024, and served Defendants Rinkleib, LZR Ultrabright, and LZR7, Inc. on November 8, 2024. The Court entered default of Quantex on December 12, 2024, and entered default of LZR Ultrabright and LZR7, Inc. on December 12, 2024. (See Plaintiff's Requests for Entry of Default.) Defendant Rinkleib answered the Complaint on May 16, 2025.

On April 15, 2025, the Court granted Plaintiff's April 11th *ex parte* application to extend the deadline to obtain default judgments against Defendant entities to August 4, 2025. Plaintiff failed to obtain default judgments of Defendant entities by August 4, 2025. On March 20, 2026, Plaintiff filed a request for court judgment in the amount of $14,000,925.50 as to all Defendant entities. Defendant Rinkleib claims that Plaintiff failed to include a monetary demand in the Complaint prior to taking defaults against Defendants LZR Ultrabright, LZR7, Inc., and Quantex and therefore and this forecloses any monetary judgment or accounting with regard to these entities as a matter of law, causing "any default judgment against these Defendants [to] be void."

II. DISCUSSION

A. Governing Law

C.C.P. Section 473 allows the court to amend pleadings and relieve parties from a judgment or order taken against a party. Section 473(b), allows for discretionary or mandatory relief from a judgment, dismissal, order, or other proceedings take against a party or their legal representative must be due to the party or their legal representative's mistake, inadvertence, surprise, or excusable neglect within six months after the judgment was taken. C.C.P. section 473(d) allows the court, upon motion of either party after notice to the other party, to set aside any void judgment or order. "When a court lacks jurisdiction in a fundamental sense, an ensuing judgment is void, and 'thus vulnerable to direct or collateral attack at any

time.' [Citation.] " (*Talley v. Valuation Counselors Group, Inc.* (2010) 191 Cal.App.4th 132, 149, quoting *Lee v. An* (2008) 168 Cal.App.4th 558, 563.)

B. C.C.P. section 473(d) is Inapplicable to Defendant Rinkleib's Request

Defendant Rinkleib's request conflates the statutory requirements and application to the instant case. Defendant Rinkleib cites to C.C.P. section 473(d) arguing that the Court has a duty to set aside "void defaults or default judgments". However, subdivision (d) applies to any void *judgment* or *order*, while subdivision (b) applies to default, default judgment, or dismissal. Here, there is no judgment or order for the Court to set aside related to the entries of default pursuant to subdivision (d). Even though Plaintiff filed a request for court judgment on March 20, 2026, the Court has not entered judgment against Defendant entities, rendering the instant motion as premature. Therefore, subdivision (d) is inapplicable to the relief Defendant Rinkleib seeks to set aside a void entry of default. Plaintiff's arguments regarding Defendant Rinkleib's failure to pay monetary sanctions owed and alleged violations of issue sanctions ordered by the Court are better addressed in a separate motion rather than in opposition to a 473(d) motion.

III. CONCLUSION

Accordingly, the motion is **DENIED**.

Plaintiff's counsel shall submit a written order on its motion to the Court consistent with this tentative ruling and in compliance with Rule of Court 3.1312(a) and (b).

26CV00689, Ferrari v. Ferrari

Petitioner Gail Ferrari ("Gail") petitions the Court for an order to disinter the remains of her late father, Gerald Ferrari, from a cemetery plot located at Calvary Catholic Cemetery, Bodega pursuant to Health and Safety Code section 7526. The petition is **DENIED**.

I. FACTUAL HISTORY

Many of the facts in this case are disputed by the parties. The following facts are not disputed. Gerald Ferrari and Bernice Ferrari were married for 58 years and have two living children: Gail Ferrari (Petitioner) and Carol Ferrari (Respondent) ("Carol"). Gerald Ferrari passed away on October 31, 2008, and Carol took possession of his cremated remains until he could be interred with Bernice. (Gail Ferrari Decl., Exhibit A.) Bernice Ferrari passed away on July 27, 2013. (Gail Ferrari Decl., Exhibit A.) Bernice was interred in a plot at the Calvary Catholic Cemetery, Bodega ("Calvary") shortly after her passing. (Gail Ferrari Decl., ¶ 10, Exhibit D.) Carol then contacted Calvary to inter Gerald's ashes with Bernice, which Calvary assisted with. (Carol Ferrari Decl., ¶ 8.) On or around September 30, 2025, Gail learned that Gerald had been interred in the plot with Bernice upon Carol's request, which was unknown to her, and only learned of this upon her requesting to have her daughter's ashes interred in the plot. (Gail Ferrari Decl., ¶¶ 18–20.) The parties dispute the ownership of the plot and who has the right to control who is interred in the plot. Gail moves the Court for an order to disinter the remains of her late father from a cemetery plot located at Calvary so that she may inter her daughter in his place.

II. DISCUSSION

A. Governing Law

The Health and Safety Code governs the rights and duties of parties regarding the disposition of remains. Health and Safety Code section 7100 establishes the hierarchy of who holds the right to control the disposition of a deceased person's remains and make funeral arrangements. Section 7100(a)(3) states:

> (a) The right to control the disposition of the remains of a deceased person, the location and conditions of interment, and arrangements for funeral goods and services to be provided, unless other directions have been given by the decedent pursuant to Section 7100.1, vests in, and the duty of disposition and the liability for the reasonable cost of disposition of the remains devolves upon, the following in the order named:
> …
> (3)…[T]he majority of the surviving competent adult children. However, less than the majority of the surviving competent adult children shall be vested with the rights and duties of this section if they have used reasonable efforts to notify all other surviving competent adult children of their instructions and are not aware of any opposition to those instructions by the majority of all surviving competent adult children.

The remains of a deceased person may be removed from a plot in a cemetery with the consent of the cemetery authority and the written consent of one of the following in the order named: the surviving spouse, the surviving children, the surviving parents, or the surviving brothers or sisters. (Health & Saf. Code § 7525.) If consent cannot be obtained, the superior court of the county where the cemetery is situated is sufficient. (Health & Saf. Code § 7526.) "In exercising its discretion to decide whether to allow disinterment and reinterment of remains, among the factors a court should give due regard 'are the interests of the public, the wishes of the decedent, the rights and feelings of those entitled to be heard by reason of relationship or association with the decedent, the degree of relationship to the decedent of those opposing or seeking disinterment, the conduct of the parties seeking and opposing reinterment, especially as it relates to the circumstances of the original interment, the integrity and capacity of the person seeking reinterment to provide a secure and comparable resting place for the decedent, any agreement with, or regulations of, the persons or associations maintaining the cemetery in which the decedent is buried, and whether consent was given, by persons with authority to do so, to the burial in the first place of interment.'" (*Maffei v. Woodlawn Memorial Park* (2005) 130 Cal.App.4th 119, 127–128.) "[S]ection 7526 grants the trial court broad discretion, sitting in equity, to consider the particular facts of each case in deciding whether to grant permission to disinter the remains of a deceased person." (*Id.* at 122.)

B. Moving Papers

Gail argues that she is the rightful owner of the plot where Gerald is buried and therefore may have him disinterred. Gail claims that her parents' marriage was "fraught with conflict and repeated threats of divorce" and that Bernice told Gail that she did not want to be buried with her late husband. (Petition, 2:13–14, 2:22–23.) Gail claims that in 2012 she purchased a burial plot in Calvary located at Row 17W, Plot 11, Gravesite 01. (Petition, 2:18–20; Gail Ferrari Reply Decl., Exhibit A.) Gail's Plot was sold to "Gail Ferrari" on August 25, 2012, with the Recorded Owners being "Bernice Ferrari & Gail

Ferrari" signed by Gail Ferrari. (Gail Ferrari Reply Decl., Exhibit A.) Gail contends that her relationship with Carol at the time of their mother's passing had deteriorated significantly, resulting in a complete breakdown of communication that persisted for years. (Petition, 2:25–27.) Gail contends that upon learning that Gerald was placed in the plot, she contacted Calvary to request disinterment of his remains, but that Calvary would only disinter Gerald and inter Gail's daughter only if she executed a consent and release of all claims against Calvary and Diocese of Santa Rosa. (*Id.* 3:21–4:6.) Gail's counsel was informed that Carol opposed the disinterment and that Calvary would only proceed with both sisters agreeing to the disinterment or a court order, necessitating the instant petition. (*Id.* 4:6–9.)

Gail contends that her Plot was conveyed to Bernice and Gail as joint tenants and therefore Gail has a vested interment right pursuant to Health and Safety Code section 8625 and it is Gail's separate property as the sole owner since Bernice passed. (*Id.* 5:20–27, 6:22–27.) Gail contends that Gerald has no vested interment right under Health and Safety Code section 8601, Gerald was interred on the plot deceptively, he has a secure and comparable resting place at Carol's residence, and that there is no evidence that Gerald expressed a wish to be buried with Bernice and if he had such a wish, it likely would have been memorialized in writing. (*Id.* at 6:11–20, 7:11–15.) Gail argues that Calvary should bear the cost of disinterment because it was its decision to permit Gerald's unauthorized interment but clarifies that she does not seek an order requiring Calvary or Carol to pay for the interment of Gail's daughter in the plot. (*Id.* at 8:11–18.)

Conversely, Carol argues that Gerald's trust paid for the plot and that she, as the Trustee of Gerald's trust, rightfully controlled who was interred there. On January 25, 2006, the Sonoma County Superior Court appointed a conservator of the person and estate of Bernice. (Opposition, 2:17–20; RJN, Exhibit A, pages 3–5.) On August 8, 2007, the Sonoma County Public Guardian became Bernice's conservator. (Opposition, 2:20–21; RJN, Exhibit A, page 16, Exhibit B, page 1.) Upon Gerald's passing, Carol took possession of his remains until he could be interred with Bernice, which was their wish. (Opposition, 3:1–6.) On July 30, 2013 (two days after Bernice's death), the conservator of Bernice's estate (the Sonoma County Public Guardian) purchased the burial plot where the Ferraris are interred 17W, Plot 11, Gravesite 01. (Opposition, 3:7–9; RJN, Exhibit B, page 10.) Bernice's conservatorship estate was funded entirely by the Gerald P. Ferrari 2005 Revocable Trust dated December 12, 2005, which Carol became the Successor Trustee upon Gerald's passing ("Gerald's Trust"). (Opposition, 3:10–13; RJN, Exhibit B, page 10.) Carol then contacted Calvary and asked for assistance in accessing the burial plot for the purpose of interring Gerald's remains with Bernice's, which Calvary permitted Carol to do on August 23, 2013. (Opposition, 3:14–18; see also Galvin Decl.) Carol contends that Gail cannot overcome the presumption against disturbing the dead's repose, that evidence demonstrates that Bernice's conservatorship purchased the burial plot with funds from Gerald's Trust, Gerald was not interred deceptively, and that all equitable factors weigh against disinterment. (Opposition, 3:21–6:7.)

The Dioceses of Santa Rosa and Calvary filed a "Statement of No Position" on March 26, 2026, stating that it had no position on the matter and requested that the Court order the unsuccessful sister to pay all costs of disinterment and reburial.

On May 1, 2026, Carol's counsel filed a supplemental declaration in response to Gail's Reply to include an email from counsel to Calvary and The Roman Catholic Bishop of Santa Rosa with additional documents from Calvary.

The Court ordered further briefing from the parties in its tentative ruling published on May 7, 2026. Counsel for Gail and counsel for The Roman Catholic Bishop of Santa Rosa/Calvary filed supplemental briefs. The Court does not see any supplemental briefing from Carol after the May 7th tentative ruling was posted.

On May 27, 2026, Gail filed a supplemental brief arguing that being connected to the source of the funds "is not the same thing as being the purchaser." (Gail Suppl. Brief, 2:8–14.) Gail claims that Carol was not involved with any of the arrangements or coordination surrounding Bernice's funeral or burial and that payment for all arrangements was processed through the conservatorship. (Gail Suppl. Brief, 2:23–3:21.)

On June 5, 2026, counsel for Calvary and The Roman Catholic Bishop of Santa Rosa filed a declaration containing several documents, including the ones provided by Carol's counsel on May 1, 2026. Counsel clarifies that The Roman Catholic Bishop of Santa Rosa is the correct name for the Defendant names as "Diocese of Santa Rosa" and that Calvary is a department of The Roman Catholic Bishop of Santa Rosa, not a separate entity. (Galvin Decl., ¶ 2.) Counsel contends that there are no remains interred in the neighboring plot and approximates the cost of disinterment to range between $1,600 and $1,850. (Galvin Decl., ¶ 4.) Counsel further claims that Calvary followed the direction of Carol for the burial instructions and was unaware of the dispute between the sisters. (Galvin Decl., ¶ 5.) Lastly, Counsel informed the Court that The Roman Catholic Bishop of Santa Rosa is in a Chapter 11 bankruptcy action (Northern District of California, Case No. 23-10113). (Galvin Decl., ¶ 2.)

C. Carol's Request for Judicial Notice

The court may take judicial notice of facts and propositions that are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy. (Evid. Code § 452(h).) The court must take judicial notice of any matter requested by a party, so long as it complies with the requirements under Evidence Code section 452. (Evid. Code § 453.) The court may take judicial notice of court records (Evid. Code § 452(d).) Courts may "take judicial notice of the *existenc*e of judicial opinions and court documents, along with the truth of the results reached—in the documents such as orders, statements of decision, and judgments—but cannot take judicial notice of the truth of hearsay statements in decisions or court files, including pleadings, affidavits, testimony, or statements of fact." (*People v. Harbolt* (1997) 61 Cal.App.4th 123, 126–127 [citations omitted]; Evid. Code §§ 452, 453.)

In support of her Opposition, Carol requests judicial notice of the Court's docket for the Sonoma County Case No. SPR-77899 *In re the Conservatorship of the Person and Estate of Bernice Ferrari* and the Supplemental Account and Report of Conservator field on February 24, 2014, in the same case ("RJN"). The request is **GRANTED** pursuant to Evidence Code section 452(d), but the Court does not take judicial notice of the truth of hearsay statements in the file.

D. Counsel Galvin is Ordered to File his Declaration Dated June 4, 2026

The Court received a courtesy copy of Counsel Galvin's Declaration dated June 4, 2026. The

Declaration contains a proof of service showing service on Carol and Gail's counsel. However, the Court does not find that Counsel Galvin *filed* this declaration in violation of California Rules of Court, Rule 3.1302(a), which requires all papers relating to law and motion proceedings to be filed in the clerk's office, unless otherwise provided by local rule or by the Court's protocol for electronic filing. The one courtesy copy left with the Court is the only copy the Court has of this declaration and the attached evidence. Principally, lodging documents fails to create a complete record for any potential appeal. Therefore, Counsel Galvin is **ORDERED** to file his June 4, 2026, Declaration in compliance with the Rules of Court within ten (10) days of this ruling.

E. Gail Does Not Overcome the Well-Established Presumption Against Removing the Remains of a Deceased Person

a. This Court Declines to Determine Ownership of the Plot

While there is limited case law concerning disinterment of remains, the most relevant and contemporary case *Maffei, supra,* 130 Cal.App.4th 119, addresses whether the decedent's widower could disinter the decedent's remains from her family crypt to be placed in her widower's crypt. Here, the facts involve two siblings who disagree as to whether their deceased parents may be interred together and argue that this determination is predicated on ownership of the plot. However, nothing in the Health and Safety Code regarding disinterment requires this Court to determine ownership of the plot. Even if the Court determined that Gail, who seeks to disinter her father's cremated remains, was the rightful owner of the plot, this alone is not dispositive. "[S]ection 7526 grants the trial court broad discretion, sitting in equity, to consider the particular facts of each case in deciding whether to grant permission to disinter the remains of a deceased person." (*Maffei, supra,* 130 Cal.App.4th at 122.) Therefore, this Court declines to determine ownership of the plot but considers the *Maffei* factors below.

b. The *Maffei* Factors

Conduct of the Parties and Consent to Gerald's Interment

It is undisputed that Bernice and Gerald are interred at Calvary in the plot located at Row 17W, Plot 11, Gravesite 01 and Gail wants her daughter to be interred in her plot instead of Gerald, who she claims was interred there without her knowledge and permission. Based on the evidence filed by the parties, Carol Ferrari executed a purchase agreement on August 23, 2013, with Calvary, for the purchase of Row 17W, Plot 11A, Gravesites 01 & 03, which is for three future interments of cremations. This was paid for by check dated August 23, 2013, by check signed as "Carol Ferrari TTEE". Conversely, Gail executed a purchase agreement with Calvary on August 25, 2012, for the purchase of the plot located at Row 17W, Plot 11, Gravesite 01. Payment was made 11 months later on July 30, 2013, via check from the Sonoma Conty Public Guardian for $2,970.00 after Bernice passed.

The most prominent point to the Court is that Plots 11 and 11A are separate plots with separate ownership. Plots 11 and 11A are technically separate but are connected to each other with Plot 11 containing Bernice's remains with Gerald's cremated remains in an urn placed over her heart. Plot 11A was purchased by Carol and contains spaces for three future interments of cremations, which are all currently empty. It is unclear to the Court whether Carol purchased Plot 11A, Gravesites 01 & 03 using

personal funds or Trust funds. However, Plot 11A is not the disputed plot. The evidence shows that Row 17W, Plot 11, Gravesite 01 was arranged by Gail and purchased by Bernice's conservatorship, which was funded by Gerald's Trust. Plot 11 was sold to Gail and signed only by her but lists both her and Bernice as "Recorded Owner(s)". However, the August 2012 invoice showed the full balance due, which was not paid until July 30, 2013, by the conservatorship after Bernice passed. Therefore, there was no consideration at the time Gail entered into the purchase agreement for Plot 11. It is undisputed that at the time of the purchase, Bernice was conserved both of her person and her estate and could not have entered into a contract. It is also undisputed that the purchase of Plot 11 was paid for with funds from Gerald's Trust. Calvary followed instruction from Carol to inter Gerald's remains with Bernice's remains.

While the Court refrains from determining ownership of Plot 11, Gerald's Trust ultimately paid for the plot that became his final resting place with his wife of 58 years. Carol claims that she was carrying out her parents' wishes to be buried together whereas Gail documents her extensive involvement in Bernice's arrangements including selecting the casket, arranging her funeral service, picking her final resting outfit, etc. Gail worked with Art Hansen (Volunteer Manager of Calvary) and the Public Guardian to make Bernice's arrangements. In an email on August 31, 2012, with Art Hansen, he asked Gail for names and addresses of her family members for a yearly donation request to which Gail responded, "I am not comfortable giving the names and addresses of my family members for reasons I would rather not disclose." (Gail's Supp. Decl., Exhibit F.) It is unclear to the Court what the relationship between Carol and Bernice was around this time. Regardless, the focus in this matter is Gerald and his remains. Even though Gail is the recorded owner of Plot 11, Gail essentially only reserved this plot as she gave no consideration upon entering into the agreement with Calvary. Gerald's Trust ultimately paid for the plot and Bernice's funeral arrangements 11 months later. Carol, as Trustee of Gerald's Trust, had his cremated remains interred with Bernice.

Furthermore, Health and Safety Code section 7100(a)(3) vests the rights and duties of interment and funeral arrangements in the majority of the surviving competent adult children but allows for less than the majority to be vested with these rights and duties if "they have used reasonable efforts to notify all other surviving competent adult children of their instructions and are not aware of any opposition to those instructions by the majority of all surviving competent adult children." Here, it appears that neither sister used reasonable efforts to notify all the other about their plans. Carol had Gerald interred without Gail's knowledge and there is no evidence that Gail notified Carol about the arrangements she made for Bernice. However, all arrangements were paid for by the conservatorship that was funded by Gerald's Trust.

Wishes of the Decedent

Here, Gail's only evidence that Bernice did not want to be interred with Gerald is a self-serving declaration stating that their 58-year marriage was fraught with conflict and repeated threats of divorce and that her mother told her on multiple occasions that she did not want to be buried with her late husband. She argues that if Bernice and Gerald truly wanted to be laid to rest together, it would have been written down. However, such argument is unfounded and speculative. Furthermore, Bernice was placed in a conservatorship on January 25, 2006, and therefore any conversation regarding her intent to not be buried with her husband is highly suspect, especially considering that Gail had been residing in Hawaii for many years and was not living in California or Sonoma County at or around the time of Bernice's passing. There is no other evidence that Bernice and Gerald did not wish to be interred together.

Degree of the Relationship of Gail and Carol to Gerald

Both parties admit Gail's strained relationship with the family and Gerald specifically. Most notably, Gerald's Trust appoints Carol as Successor Trustee and she is the sole named beneficiary of the Trust upon Bernice's death: "On the death of BERNICE CORA FERRARI, the Trustee shall distribute the balance of the Trust Estate to CAROL ANNE FERRARI…". Gail Ferrari is specifically excluded from the Trust: "Other than as otherwise provided herein, Settlor makes no provision for BERNICE CORA FERRARI, his wife, GAIL FERRARI, his daughter, nor any of the heirs of either."

Secure and Comparable Resting Place

Gail argues that a secure and comparable resting place exists for Gerald with Carol at her home, where he was previously placed, or in Carol's plot (Plot 11A). Calvary confirmed that Carol has three empty gravesites on her plot next to Bernice. However, Gail, not Carol, is seeking to disinter Gerald, and therefore Gail does not claim that she can provide a comparable resting place for Gerald but instead places this burden on Carol.

Other Relevant Factors

The Court also considers amount of time that has passed. Gerald was interred on August 23, 2013, and the instant petition was filed on January 26, 2026. Therefore, Gerald has been interred with Bernice for nearly 13 years to date. (See *Maffei, supra,* 130 Cal.App.4th at 130 ["the trial court was entitled to rely on the passage of more than 20 years since [decedent's] burial as a factor weighing against disinterment of her remains."].) Another concern of the Court is that assuming *arguendo* the Court ordered Gerald's remains to be disinterred, there is no guarantee the urn could be disinterred without damage. Calvary has advised that Gerald's urn was buried without using an urn vault and maintains that it will not be responsible for any damage to the urn should it be removed.

c. <u>The Factors Weigh Against Disinterment of Gerald's Cremated Remains</u>

In sum, the facts of the instant case are as follows. Bernice and Gerald were married for 58 years until Gerald's passing. In 2007, Bernice was placed in a conservatorship of her person and estate. Gerald's cremated remains were in Carol's possession so that he could be interred with his wife upon her passing. The only evidence presented that Bernice did not want to be interred with Gerald is Gail's self-serving declaration. Gerald was interred in the plot that was paid for by his wife's conservatorship that was funded by his Trust, the same Trust that Gail is intentionally disinherited from and names Carol as Successor Trustee and the sole beneficiary of the Trust Estate upon Bernice's passing. Gerald has been interred with Bernice for nearly 13 years and there is no evidence that the urn with his remains would not be damaged upon disinterment as the urn was buried without using an urn vault. Gail, the party seeking to disinter her father's remains to replace them with her daughter's remains, has had a strained relationship with her family for many years. Considering all of these facts, the Court does not exercise its discretion to disinter Gerald's remains from Plot 11 so that Gail may inter her daughter's remains in place of Gerald's. The Court finds that Gail fails to overcome the well-established presumption against removing the remains of a deceased person and the *Maffei* factors weigh against disinterment of Gerald's remains.

III. CONCLUSION

The petition is **DENIED**.

Carols' counsel shall submit a written order on its motion to the Court consistent with this tentative ruling and in compliance with Rule of Court 3.1312(a) and (b).

MCV-259231, Espinoza Bail Bonds, Inc. v. Arambula

Plaintiff Espinoza Bail Bonds, Inc. ("Plaintiff") moves for an order from the Court amending the default judgment or vacating or setting aside the default and default judgment pursuant to C.C.P. section 473(d). The motion is **GRANTED**. The default and January 10, 2023, default judgment in favor of Plaintiff are **VACATED**. Plaintiff shall file an amended Complaint within thirty (30) days of notice of entry of this order.

I. FACTUAL & PROCEDURAL HISTORY

Plaintiff filed the Complaint on August 4, 2022, against Defendants Brayan Arambula, Carmen Yesenia Lopez Barrios, and Daniela Iniguez (together as "Defendants") for breach of contract and other causes of action for failing to pay premiums owed on a written Bail Bond and Agreement for Surety Bail Bond. On November 9, 2022, the Court entered default of all three Defendants. On January 10, 2023, the Court entered default judgment in favor of Plaintiff in the amount of $12,617.53. Now more than three years later, Plaintiff asks the Court to amend the default judgment because Plaintiff was incorrectly designated as an entity. On June 26, 2024, Plaintiff's counsel became aware that the true name of Plaintiff is Jose Espinoza dba Espinoza Bail Bonds, not Espinoza Bail Bonds, Inc. Plaintiff requests the Court to amend the default judgment to read Jose Espinoza dba Espinoza Bail Bonds in place of Espinoza Bail Bonds, Inc. or for the Court to vacate or set aside the default and default judgment so that Plaintiff may amend the complaint.

II. DISCUSSION

A. Governing Law

C.C.P. section 473(d) allows the court to "correct clerical mistakes in its judgment or orders as entered, so as to conform to the judgment or order directed." When correcting clerical mistakes, "the function of a nunc pro tunc order is merely to correct the record of the judgment and not to alter the judgment actually rendered—not to make an order now for then, but to enter now for then an order previously made." (*In re Marriage of Padgett* (2009) 172 Cal.App.4th 830, 852.) In other words, "the court can only make the record show that something was actually done at a previous time; a nunc pro tunc order cannot declare that something was done which was not done." (*Johnson & Johnson v. Sup. Ct.* (1985) 38 Cal.3d 243, 256.) The difference between a clerical error and a judicial error is whether the error was made in rendering the judgment (judicial error) or in recording the judgment (clerical error). (*People v. Karaman* (1992) 4 Cal.4th 335, 345.) To distinguish a clerical error from judicial error, courts consider "whether the challenged portion of the judgment was entered inadvertently (which is clerical

error) versus advertently (which might be judicial error but is not clerical error)." (*Tokio Marine & Fire Ins. Cop. V. Western Pacific Roofing Corp.* (1999) 75 Cal.App.4th 110, 117–118.) Additionally, C.C.P. section 473(d) allows the court, upon motion of either party after notice to the other party, to set aside any void judgment or order.

B. Plaintiff's Misnomer is not a Clerical Error but Renders the Default Judgment Void

Clerical Error

While section 473(d) allows the Court to correct clerical errors, the error in the instant case is not a clerical error within the meaning of the statute. Plaintiff was misnamed as an entity at the inception of this case due to its own misinformation about the true identity of Plaintiff. Therefore, nothing in the default and subsequent Judgment "was entered inadvertently [and thus] cannot be changed post judgment under the guise of correction of clerical error." (*Tokio Marine, supra,* 75 Cal.App.4th at 117.)

Void Judgment

However, in the alternative, Plaintiff asks the Court to vacate or set aside the default and Judgment so that Plaintiff may amend the complaint to correctly identify Plaintiff. Plaintiff acknowledges that it was misnamed at the inception of this case due to its own misinformation. The resulting entries of default and default Judgment in Plaintiff's favor are therefore void and unenforceable as the Judgment was entered in favor an entity that is not a true a party to the case and/or may not exist. (Cf. *Nissan v. Barton* (1970) 4 Cal.App.3d 76 [default judgment entered against individual who had been served as fictitious party was void and not merely erroneous].) While Plaintiff does not provide any explanation of why it filed the instant motion nearly one and a half years after discovering Plaintiff's true identity, section 473 is to be applied liberally. Therefore, the Court **GRANTS** Plaintiff's request to vacate the default and default judgment so that Plaintiff may amend the Complaint to correct its name.

III. CONCLUSION

The default and January 10, 2023, default judgment in favor of Plaintiff are **VACATED**. Plaintiff shall file an amended Complaint within thirty (30) days of notice of entry of this order.

Plaintiff's counsel shall submit a written order on its motion to the Court consistent with this tentative ruling and in compliance with Rule of Court 3.1312(a) and (b).