

A long time ago (well, actually, today) in a galaxy far, far away (or in Martinez, California)....

THE LAW & MOTION SAGA

EPISODE IV: A NEW HOPE (FOR JUDGMENT)

DISCLAIMER

- I am happy to take questions during and after the program, time permitting.
- I am a quasi-judicial court employee bound not only by the Rules of Professional Conduct, but by the Canons of Judicial Ethics.
- I cannot answer questions about cases that are pending in the Contra Costa County Superior Court.
- I cannot answer questions about how particular judges would rule on any issue. Nothing in this seminar should be construed as any indication of how a judge would rule.
- All fact patters, examples and sample forms are fiction.

ABBREVIATIONS

APJ – All-Purpose Judge	MSJ/MSA – Motion for Summary Judgment/Summary Adjudication
COA – Cause of Action	MTC – Motion to Compel
CoCoCo – Contra Costa County	NOE – Notice of Entry
F&S – File & Serve	POD – Request for Production of Documents
j/x – Jurisdiction	RFA – Request for Admission
M&C – Meet & Confer	RFJN – Request for Judicial Notice
MIL – Motion <i>In Limine</i>	Rog – Interrogatory (either Special or Form)
MJOP – Motion for Judgment on the Pleadings	SOL – Statute of Limitations
MPA – Memorandum of Points and Authorities	

THE LAW & MOTION UNIVERSE

All of the Episodes of the Law & Motion Saga will give examples based on the following set of hypothetical facts:

Darth Vader (fka Annikan Skywalker) died during the Battle of Endor. At the time of his death, Vader was unmarried. His wife, Padme Skywalker (nee Amidala), predeceased him in childbirth. Vader was survived by twin children, Luke Skywalker and Princess Leia Solo (nee Organa).

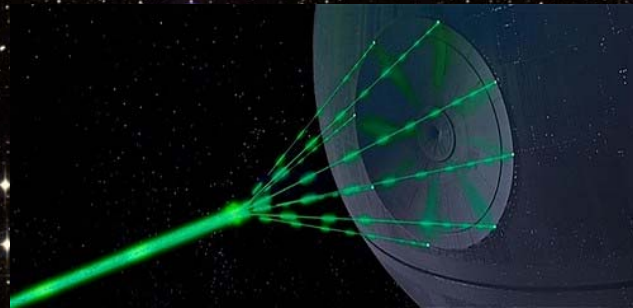
Approximately two months after Vader's death, Luke and Leia received a Trustee's Notification pursuant to Probate Code § 16061.7. The Trustee's Notification included a copy of The Darth Vader Revocable Living Trust. The Trust provides that the successor trustee following Vader's death is to be Emperor Palpatine or, if he does not survive (he didn't), then "Supreme Leader Snoke" is to serve as successor trustee. Upon Vader's death, all of the assets of the Trust (assumed to be worth approximately 10 million Galactic Credits) are to be distributed to Vader's Grandson, Ben Solo, except that Luke and Leia are to each receive a bantha, if any are assets of the Trust.

Shocked, Luke (but not Leia) hired an attorney to file a Petition in the Probate Division of the Contra Costa County Superior Court alleging, among other claims, that the Trust is invalid because (1) Vader lacked the requisite mental capacity to execute the Trust; (2) Vader was unduly influenced by Emperor Palpatine, Ben Solo and/or "Supreme Leader Snoke" into executing the Trust; and (3) Vader was under duress when he executed the Trust.

Assume that CoCoCo has personal and subject matter jurisdiction over this case and that service of the petition was proper and timely.

EPISODE IV: A NEW HOPE (FOR JUDGMENT)

MOTIONS FOR SUMMARY JUDGMENT/SUMMARY ADJUDICATION



EPISODE IV: A NEW HOPE (FOR JUDGMENT)

- **Major Authorities**
 - **CCP § 437c**
 - **CRC 3.1350-3.1354**
 - **Aguilar v. Atlantic Richfield Co. (2001) 25 Cal.4th 826, 843**
- **“No triable issue of material fact and moving party is entitled to judgment as a matter of law”**

Pros & Cons

Pros

- **End the case early**
- **Eliminate high-stakes COAs**
- **Educate opponent**
- **Focus discovery**
- **Educate the judge about your case (APJs only)**
- **Abuse of discretion review of evidentiary rulings**

Cons

- **Delay**
- **Long notice period**
- **Highly technical/complex**
- **Expensive**
- **Educate opponent**
- **High likelihood of denial**
- **Judicial policy to try cases**
- **De Novo review on the merits**

What Kinds of Cases?

- Respondents with a complete defense – YES
- Will/trust contests – NOT USUALLY
 - But see Estate of Ellis Weldell Fuller 2011 Cal. App. Unpub. LEXIS 3555 (*unpublished case*)
- Breach of trust – MAYBE
- “Battle of the experts” – NO
- Elder abuse? – MAYBE
- Prob. Code § 850 – YES
- Accounting disputes - MAYBE

EPISODE IV: A NEW HOPE (FOR JUDGMENT)

- **Summary Judgment:**
 - Action *as a whole* lacks merit or there is no defense to the action. CCP § 437c(a).
- **Summary Adjudication:**
 - COA lacks merit; one or more claims for damages has no merit; no merit to punitive damages claim; no affirmative defense to COA; no merit to affirmative defense; one or more respondents owed or did not owe a duty to petitioner. CCP § 437c(f)(1).

EPISODE IV: A NEW HOPE (FOR JUDGMENT)

- **Cannot seek MSA on an *issue within a COA* except by stipulation and court order. CCP § 437c(t).**
- **MSA may be made by itself or in the alternative to MSJ. CCP § 437c(f)(2).**
- **Result of granting MSJ is *final, appealable judgment*. MSA grant is a non-appealable interlocutory order.**

PROCEDURAL RULES

- **CAUTION: Procedural rules must be followed *to the letter*.**
 - “[A] failure to comply with any one of [Section 437c’s] requirements is likely to be fatal to the offending party.” Brantley v. Pisaro (1996) 42 Cal. App. 4th 1591, 1607.

PROCEDURAL RULES

• Timing

- Not earlier than 60 days after the *general appearance* of the party against whom the motion is directed.
- F&S Notice & supporting papers 75 days before the hearing (**NOT** the 16/9/5 rule).
 - Calendar days (including weekends & holidays), not court days.
 - Add:
 - 5 calendar days if served by mail in California. CCP § 1013.
 - 2 court days if served electronically or overnight. CCP § 1010.6(a)(3)(B)

PROCEDURAL RULES

• Timing

- **NO LATE FILING OF MOVING PAPERS!!!**
 - Court lacks discretion to shorten notice in the absence of a stipulation. McMahon v. Superior Court (2003) 106 Cal. App. 4th 112, 116.
- **Opposition: F&S 14 calendar days before hearing.**
 - Reasonably calculated to be received by the close of the next business day. CCP § 1005(c).
- **Reply: F&S 5 calendar days before hearing.**
 - Reply is optional.

PROCEDURAL RULES

• Timing

- Motion must be heard not later than 30 days prior to first day of trial except by court order for good cause. CCP § 437c(a)(3).



PAPERS IN SUPPORT (Moving Party)

- Notice (Required)
 - If moving for MSA in the alternative, Notice must say so. Homestead Sav. v. Superior Court (1986) 179 Cal. App. 3d 494, 498.
 - Must identify all documents upon which the Motion is based.
- MPA (Required)
 - Max length: 20 pages. CRC 3.1113(d).
 - If longer than 10 pages, TOC & TOA required. CRC 3.1113(f).

PAPERS IN SUPPORT (Moving Party)

- **Separate Statement (Required)**
 - **CRC 3.1350**
 - **Must be a separate document**
 - **Must provide electronic version to opponent within 3 days of request. CRC 3.1350(i).**
 - **Purpose is to save the judge from having to review all of the evidentiary materials. See St. Paul Mercury Ins. Co. v. Frontier Pac. Ins. Co. (2003) 111 Cal. App. 4th 1243, 1248.**

PAPERS IN SUPPORT (Moving Party)

- **Separate Statement (Required)**
 - **“Golden Rule”: If it’s not in the Separate Statement, *it does not exist.* United Comm. Church v. Garcin (1991) 231 Cal. App. 3d 327, 337.**

PAPERS IN SUPPORT (Moving Party)

- **Evidence (Required)**
 - **Must be *admissible*. CCP § 437c(c), (d).**
 - **Declarations**
 - **Expert witness declarations (see People v. Sanchez (2016) 63 Cal.4th 665)**
 - **Depo transcripts**
 - **Certified excerpts only**
 - **Written discovery responses**
 - **Subpoenaed documents**

PAPERS IN SUPPORT (Moving Party)

- **Evidence (Required)**
 - **RFJN. Evid. Code § 452.**
 - **May not rely on your own pleadings in support of MSJ/MSA, even if verified. College Hospital, Inc. v. Superior Court (1994) 8 Cal.4th 704, 720, n.7.**
- **Index of Exhibits (Required?)**
 - **CRC 3.1110(f)**

PAPERS IN OPPOSITION

- **Separate Statement (Required)**
 - **Format: CRC 3.1350(h)**
 - **Responds to moving party's statement.**
 - **"Undisputed" or "Disputed" + Evidence and/or Evidentiary Objections.**
 - **"Undisputed" is not a judicial admission. Wright v. Stang Mfg. Co. (1997) 54 Cal. App. 4th 1218, 1224.**

PAPERS IN OPPOSITION

- **Evidentiary Objections**
 - **Not required, but STRONGLY RECOMMENDED.**
 - **Court cannot consider evidence to which an objection has been made and sustained. CCP § 437c(c).**
 - **Objections are waived if not made.**
 - **Format: CRC 3.1354(b).**
- **MPA (Required)**

PAPERS IN OPPOSITION

- **Evidence (Required)**
- **Additional Undisputed Facts (Optional)**
- **Request for Continuance**
 - **CCP § 437c(h)**
 - **If essential evidence *may* exist but for reasons stated cannot be presented, opposing party may request a continuance *ex parte* and before the opposition is due in order to conduct appropriate discovery.**

PAPERS IN SUPPORT (Reply)

- **Entirely Optional**
- **Maximum 10 pages. CRC 3.1113(d).**
- **No Separate Statement allowed except to respond to Opposition Separate Statement.**
- **May also object to Opposition evidence.**

DRAFTING THE MOTION

- **Role of Pleadings**
 - Pleadings frame the *issues*, i.e., what is “material”.
 - Think about the elements to each COA/affirmative defense.
 - Pleadings do not limit the evidence on MSJ/MSA, like a demurrer.
 - Moving party may not seek MSJ/MSA on issues not raised by the pleadings. Laabs v. City of Victorville (2008) 163 Cal. App. 4th 1242, 1258.
 - Failure to object waives the defect. Superior Dispatch, Inc. v. Insurance Corp. of N.Y. (2010) 181 Cal. App. 4th 175, 193.

DRAFTING THE MOTION

- **General Burden of Proof**
 - No triable issue of material fact and moving party is entitled to judgment as a matter of law.
 - Moving party always carries burden of persuasion that no triable issue exists. Aguilar, supra at 850.
 - Fact that Motion is not opposed does not change the requirement that moving party must meet the burden.

DRAFTING THE MOTION

- **Initial Burden of Proof**
 - **Petitioners moving for MSJ/MSA**
 - *Prima facie* evidence of proof of each element of the COA. CCP § 437c(p)(1); Aguilar, supra at 850.
 - Not required to negate affirmative defenses. Consumer Cause, Inc. v. SmileCare (2001) 91 Cal. App. 4th 454, 468.
 - BUT, if the Petition anticipates affirmative defenses and pleads facts to avoid them, those facts are material and must be refuted in the moving papers. Bacon v. Southern Cal. Edison. Co. (1997) 53 Cal. App. 4th 854, 858.

DRAFTING THE MOTION

- **Initial Burden of Proof**
 - **Petitioners moving for MSJ/MSA**
 - Where burden is “preponderance of evidence” at trial, burden is preponderance of evidence on MSJ/MSA; same is true if burden is “clear and convincing”. Aguilar, supra at 857.
 - Opposing party has no evidentiary burden until moving party has met its burden of production.

DRAFTING THE MOTION

- **Initial Burden of Proof**
 - **Petitioners moving for MSJ/MSA**
 - **Once the burden is met by Petitioner, burden shifts to the Respondent to meet its burden of production to make a *prima facie* showing that a triable issue of material fact exists. Aguilar, supra at 850.**

DRAFTING THE MOTION

- **Initial Burden of Proof**
 - **Respondents moving for MSJ/MSA**
 - **2 ways to meet the burden (CCP § 437c(p)(2)):**
 - **There is a *complete defense* to the COA; OR**
 - **One of more elements of the COA *cannot be established*.**

DRAFTING THE MOTION

- **Initial Burden of Proof**
 - **Respondents moving for MSJ/MSA**
 - **Complete defense**
 - **Must affirmatively prove *each element* of the defense. Anderson v. Metaclad Insulation Corp. (1999) 72 Cal. App. 4th 284, 289.**
 - **Not an absence of evidence to disprove on Petitioner's part. Consumer Cause, Inc. v. SmileCare (2001) 91 Cal. App. 4th 454, 472.**

DRAFTING THE MOTION

- **Initial Burden of Proof**
 - **Respondents moving for MSJ/MSA**
 - **Element(s) *cannot be established***
 - **Evidence that *negates as a matter of law an essential element of the COA*. Güz v. Bechtel Nat'l, Inc. (2000) 24 Cal.4th 317, 334.**
 - **Moving party's evidence is strictly construed. Johnson v. American Standard, Inc. (2008) 43 Cal.4th 56, 64.**
 - **Evidence that Petitioner does not have *and cannot reasonably obtain* evidence to support the element. Aguilar, supra at 854.**

DRAFTING THE MOTION

- **Initial Burden of Proof**
 - **Respondents moving for MSJ/MSA**
 - **Element(s) *cannot be established***
 - Evidence that Petitioner does not have *and cannot reasonably obtain* evidence to support the element. Aguilar, supra at 854.
 - Not enough to show that Petitioner has no evidence...must show that Petitioner *cannot reasonably obtain* evidence. Gaggero v. Yura (2003) 108 Cal. App. 4th 884, 891.

DRAFTING THE MOTION

- **Initial Burden of Proof**
 - **Respondents moving for MSJ/MSA**
 - **Element(s) *cannot be established***
 - **Petitioner's admissions.**
 - **Depo testimony.**
 - **Factually devoid discovery.**

DRAFTING THE MOTION

- **May not attack credibility of moving party's evidence. CCP § 437c(e).**
- ***Reasonable inferences* may be sufficient to create a triable issue. CCP § 437c(c).**
- ***Evidentiary presumptions* may affect the burden of production (e.g., presumption of *sanity*). Evid. Code §§ 603-604.**

RULING ON THE MOTION

- **3-pronged analysis (Food Safety Net Services v. Eco Safe Systems (2012) 209 Cal. App. 4th 1118, 1124):**
 - **What are the issues framed by the pleadings?**
 - **Has moving party met its burden of production to show no triable issue?**
 - **Yes? Move on. No? Motion denied.**
 - **If burden is met, has opposing party met its burden to produce evidence showing the existence of a triable issue?**
 - **Yes? Motion denied. No? Motion granted.**

RULING ON THE MOTION

- Court must consider all of the evidence and all of the inferences reasonably drawn from the evidence. CCP § 437c(c).
- Must view evidence in the light most favorable to the non-moving party. Aguilar, supra at 843.

RULING ON THE MOTION

- Court must not weigh the evidence. Mann v. Cracchiolo (1985) 38 Cal.3d 18, 39.
- Conflicting inferences create a triable issue. Aguilar, supra at 856.
- Evidentiary objections not ruled upon are preserved for appeal. CCP § 437c(q).
- Uncontroverted declarations must be accepted as true. CCP § 437c(e).

RULING ON THE MOTION

- Court has the authority to grant MSJ/MSA on grounds not raised in the moving papers. Juge v. County of Sacramento (1993) 12 Cal. App. 4th 59, 69.
 - However, must give opposing party an opportunity to be heard on that issue.

ENTRY OF ORDER/JUDGMENT

- MSJ Granted
 - Court must state the reasons in the order & cite to the evidence leading to the conclusion. CCP § 437c(g).
 - MSJ Order is not appealable. CCP § 437c(m).
 - Appeal lies from the *judgment* entered pursuant to the Order.
 - Typically, prevailing party on granted MSJ asks the court *ex parte* to enter judgment consistent with the Order.

ENTRY OF ORDER/JUDGMENT

- **MSA Granted**
 - Trial continues as to the remaining COAs.
 - COAs where MSA is granted are deemed established at trial. CCP § 437c(n)(1).



POST-HEARING PROCEDURES

- **Motion for Reconsideration (CCP § 1008)**
 - Don't do it!
- **Renewal motion (CCP §§ 437c(f)(2), 1008)**
 - Must be based on new or different facts, circumstances or law, but can be made more than 10 days after the order denying MSJ/MSA.
 - Can also include issues not raised in earlier motion. Nieto v. Blue Shield of Calif. Life & Health Ins. Co. (2010) 181 Cal. App. 4th 60, 72.

POST-HEARING PROCEDURES

- **Motion for a New Trial (CCP § 659)**
 - After judgment entered
 - Episode VI
- **Motion for Relief (CCP § 473(b))**
 - Episode III
- **Memorandum of Costs/Motion to Strike or Tax (CCP § 1033.5)**
 - But see Prob. Code § 1002
 - Episode VI

POST-HEARING PROCEDURES

- **Appeal**
 - ***De novo* standard of review on the merits. Johnson v. American Standard, Inc. (2008) 43 Cal.4th 56, 64.**
 - **BUT abuse of discretion standard on evidentiary rulings. Butte Fire Cases (2018) 24 Cal. App. 5th 1150, 1169.**

MSJ/MSA ODDITIES

- **Cross-motions**

- **The fact that there are cross-motions does not necessarily mean that there is a triable issue. Each motion must be evaluated independently and without reference to the other. Advent, Inc. v. National Union Fire Ins. Co. of Pittsburgh, PA (2016) 6 Cal. App. 5th 443, 453.**

MSJ/MSA ODDITIES

- **MSA granted prior to jury trial**

- **Generally, no right to jury trial in Probate Code matters. Prob. Code § 825.**
- **Notable exceptions: conservatorship appointments & terminations. Prob. Code § 1827, 1863.**
- **Financial elder abuse.**
- **No party, witness or the court may comment to the jury upon the grant or denial of a MSJ/MSA. CCP § 437c(n)(3).**

MSJ/MSA ODDITIES

- **MSJ/MSA granted on grounds not raised**
 - **Situation: court evaluates motion and finds no triable issue, but on grounds not raised in moving papers.**
 - **Two options:**
 - **Deny the motion.**
 - **Grant, but the court *must* give the non-moving party notice and an opportunity to be heard.**
Judge v. County of Sacramento (1993) 12 Cal. App. 4th 59, 70.

QUESTIONS???





EPIISODE IV
SAMPLE FORMS

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6 SUPERIOR COURT OF CALIFORNIA

7 COUNTY OF CONTRA COSTA

8
9 In re the

Case No.: P74-00001

10 DARTH VADER REVOCABLE LIVING
11 TRUST.

12 NOTICE OF MOTION AND MOTION FOR
13 SUMMARY JUDGMENT OR,
14 ALTERNATIVELY SUMMARY
15 ADJUDICATION

16 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

17 NOTICE IS HEREBY GIVEN that on September 13, 2024, in Department 30 of the
18 above-captioned court, located at 725 Court Street, Martinez, California, Respondent BEN
19 SOLO (“Respondent”) will and hereby does move for an order granting summary judgment in
20 his favor and against Petitioner LUKE SKYWALKER (“Petitioner”) on Petitioner’s “Petition to
21 Invalidate Trust” (the “Petition”) pursuant to Code of Civil Procedure section 437c. The ground
22 for this Motion is that the Petition has no merit, there is no triable issue of material fact and
23 Respondent is entitled to judgment in his favor as a matter of law.

24 ALTERNATIVELY, NOTICE IS HEREBY GIVEN that at the same time and place set
25 forth above, Respondent will and does move for an order granting summary adjudication in his
26 favor and against Petitioner on the First Cause of Action (Invalidity of Darth Vader Revocable
27 Trust – Lack of Mental Capacity) set forth in the Petition pursuant to Code of Civil Procedure
28 section 437c. The ground for this Motion is that the First Cause of Action has no merit, there is
no triable issue of material fact and Respondent is entitled to judgment in his favor as a matter of
law.

NOTICE OF MOTION AND MOTION FOR SUMMARY JUDGMENT OR, ALTERNATIVELY SUMMARY
ADJUDICATION - 1

1 Respondent also moves move for an order granting summary adjudication in his favor
2 and against Petitioner on the Second Cause of Action (Invalidity of Darth Vader Revocable Trust
3 – Undue Influence) set forth in the Petition pursuant to Code of Civil Procedure section 437c.
4 The ground for this Motion is that the First Cause of Action has no merit, there is no triable issue
5 of material fact and Respondent is entitled to judgment in his favor as a matter of law.

6 Respondent also moves move for an order granting summary adjudication in his favor
7 and against Petitioner on the Third Cause of Action (Invalidity of Darth Vader Revocable Trust –
8 Duress) set forth in the Petition pursuant to Code of Civil Procedure section 437c. The ground
9 for this Motion is that the Second Cause of Action has no merit, there is no triable issue of
10 material fact and Respondent is entitled to judgment in his favor as a matter of law.

11 Respondent also moves move for an order granting summary adjudication in his favor
12 and against Petitioner on the Third Cause of Action (Invalidity of Darth Vader Revocable Trust –
13 Duress) set forth in the Petition pursuant to Code of Civil Procedure section 437c. The ground
14 for this Motion is that the Third Cause of Action has no merit, there is no triable issue of material
15 fact and Respondent is entitled to judgment in his favor as a matter of law.

16 Respondent also moves move for an order granting summary adjudication in his favor
17 and against Petitioner on the Fourth Cause of Action (Financial Elder Abuse against Ben Solo)
18 set forth in the Petition pursuant to Code of Civil Procedure section 437c. The ground for this
19 Motion is that the Fourth Cause of Action has no merit, there is no triable issue of material fact
20 and Respondent is entitled to judgment in his favor as a matter of law.

21 This Motion is based on this Notice, the Memorandum of Points and Authorities, the
22 Declarations of Darth Maul, Ben Solo and Darth Plaegus, the Request for Judicial Notice, the
23 Separate Statement of Undisputed Material Facts, all on file herewith, the file herein, and on
24 such further argument as may be received at the hearing on this matter.

25 Date: _____

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SUPERIOR COURT OF CALIFORNIA

COUNTY OF CONTRA COSTA

In re the

Case No.: P74-00001

DARTH VADER REVOCABLE LIVING TRUST.

SEPARATE STATEMENT OF UNDISPUTED MATERIAL FACTS IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT OR ALTERNATIVELY SUMMARY ADJUDICATION

Issue 1: The Petition is Barred by the Statute of Limitations at Probate Code section 16061.8

<u>Moving Party's Undisputed Material Facts and Supporting Evidence</u>	<u>Opposing Party's Response and Supporting Evidence</u>
1. Darth Vader ("Vader") executed the Darth Vader Revocable Trust (the "Trust") on April 23, 2072. Petition, ¶ 16, Exh. A.	1.
2. Emperor Palpatine is named as the successor trustee of the Trust after Vader's death, but he died prior to Vader's death. Petition, ¶ 16, Exh. A; Snoke Decl., ¶ 3.	2.

SEPARATE STATEMENT OF UNDISPUTED MATERIAL FACTS IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT OR ALTERNATIVELY SUMMARY ADJUDICATION - 1

3. Supreme Leader Snoke (“Snoke”) is named as successor trustee of the Trust if Emperor Palpatine did not survive Vader’s death. Petition, ¶ 16, Exh. A; Snoke Decl., ¶ 3.	3.
4. Snoke sent the “Trustee’s Notification Pursuant to Probate Code Section 16061.7” to Luke Skywalker (“Petitioner”) on December 15, 2073. Snoke Decl., ¶ 4, Exh. A.	4.
5. Skywalker filed the instant Petition on April 15, 2074. RFJN no. 1.	5.

Issue 2: Darth Vader Had the Requisite Mental Capacity to Execute the Darth Vader Revocable Trust

<u>Moving Party’s Undisputed Material Facts and Supporting Evidence</u>	<u>Opposing Party’s Response and Supporting Evidence</u>
6. Darth Vader (“Vader”) executed the Darth Vader Revocable Trust (the “Trust”) on April 23, 2072. Petition, ¶ 16, Exh. A.	6.
7. The Trust was drafted by Vader’s attorney of 10 years, Darth Plaegus. Plaegus Decl., ¶¶ 2-3.	7.
8. Darth Plaegus was present at the time that Vader executed the Trust. Plaegus Decl., ¶ 3.	8.
9. At the moment that Vader executed the Trust, he knew who his children were. Plaegus Decl., ¶ 4.	9.

<p>10. Luke Skywalker does not have evidence to support his allegation in the instant Petition that Vader did not know the natural objects of his bounty.</p> <p>Petition, ¶ 7; Maul Decl., ¶¶ 2, Exh. C (Skywalker Response to Special Interrogatory no. 4); ¶ 5, Exh. F (Skywalker Depo., pp.35:4-36:12)</p>	<p>10.</p>
<p>11. At the moment that Vader executed the Trust, he knew what he owned.</p> <p>Plaegus Decl., ¶ 5.</p>	<p>11.</p>
<p>12. Luke Skywalker does not have evidence to support his allegation in the instant Petition that Vader did not know the nature and extent of his property.</p> <p>Petition, ¶ 7; Maul Decl., ¶¶ 2, Exh. C (Skywalker Response to Special Interrogatory no. 7); ¶ 5, Exh. F (Skywalker Depo., pp.41:20-43:1)</p>	<p>12.</p>
<p>13. Immediately prior to executing the Trust, Darth Plaegus asked Vader whether he understood that the Trust was designed to distribute property at Vader’s death, to which Vader answered that he did.</p> <p>Plaegus Decl., ¶ 6.</p>	<p>13.</p>
<p>14. Luke Skywalker does not have evidence to support his allegation in the instant Petition that Vader did not know the nature and extent of his property.</p> <p>Petition, ¶ 7; Maul Decl., ¶¶ 2, Exh. C (Skywalker Response to Special Interrogatory no. 10); ¶ 5, Exh. F (Skywalker Depo., pp.50:3-52:15)</p>	<p>14.</p>
<p>15. Vader was the one who supplied by e-mail all of the information that was inserted into the Trust distribution provisions.</p> <p>Plaegus Decl., ¶ 7, Exh. A.</p>	<p>15.</p>

SEPARATE STATEMENT OF UNDISPUTED MATERIAL FACTS IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT OR ALTERNATIVELY SUMMARY ADJUDICATION - 3

Issue 3: Darth Vader Was Not Unduly Influenced Into Executing the Darth Vader Revocable Trust

<u>Moving Party’s Undisputed Material Facts and Supporting Evidence</u>	<u>Opposing Party’s Response and Supporting Evidence</u>
16. Darth Vader (“Vader”) executed the Darth Vader Revocable Trust (the “Trust”) on April 23, 2072. Petition, ¶ 16, Exh. A.	16.
17. The Trust was drafted by Vader’s attorney of 10 years, Darth Plaegus. Plaegus Decl., ¶¶ 2-3.	17.
18. Darth Plaegus was present at the time that Vader executed the Trust. Plaegus Decl., ¶ 3.	18.
19. The only other person present in the room at the time that Vader executed the Trust was Darth Plaegus’ legal assistant, Ahsoka Tano. Plaegus Decl., ¶ 3.	19.
20. Vader appeared to be physically healthy at the time that he executed the Trust. Plaegus Decl. ¶ 8.	20.
21. Vader’s memory appeared to be completely in tact at the time that he executed the Trust. Plaegus Decl., ¶ 9.	21.

Date: _____

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SEPARATE STATEMENT OF UNDISPUTED MATERIAL FACTS IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT OR ALTERNATIVELY SUMMARY ADJUDICATION

Issue 1: The Petition is Barred by the Statute of Limitations at Probate Code section 16061.8

<u>Moving Party's Undisputed Material Facts and Supporting Evidence</u>	<u>Opposing Party's Response and Supporting Evidence</u>
1. Darth Vader ("Vader") executed the Darth Vader Revocable Trust (the "Trust") on April 23, 2072. Petition, ¶ 16, Exh. A.	1. Undisputed.
2. Emperor Palpatine is named as the successor trustee of the Trust after Vader's death, but he died prior to Vader's death. Petition, ¶ 16, Exh. A; Snoke Decl., ¶ 3.	2. Undisputed.

1 2 3 4	3. Supreme Leader Snoke (“Snoke”) is named as successor trustee of the Trust if Emperor Palpatine did not survive Vader’s death. Petition, ¶ 16, Exh. A; Snoke Decl., ¶ 3.	3. Undisputed.
5 6 7 8 9 10	4. Snoke sent the “Trustee’s Notification Pursuant to Probate Code Section 16061.7” to Luke Skywalker (“Petitioner”) on December 15, 2073. Snoke Decl., ¶ 4, Exh. A.	4. Disputed. The Proof of Service states that the Trustee’s Notification was sent on December 15, 2073, but the postmark on the envelope that carried the Trustee’s Notification states that it was mailed on December 20, 2073. Andor Decl., ¶ 2, Exh. A.
11 12 13	5. Skywalker filed the instant Petition on April 15, 2074. RFJN no. 1.	5. Unisputed.

Issue 2: Darth Vader Had the Requisite Mental Capacity to Execute the Darth Vader Revocable Trust

<u>Moving Party’s Undisputed Material Facts and Supporting Evidence</u>	<u>Opposing Party’s Response and Supporting Evidence</u>	
16 17 18 19 20	6. Darth Vader (“Vader”) executed the Darth Vader Revocable Trust (the “Trust”) on April 23, 2072. Petition, ¶ 16, Exh. A.	6. Undisputed.
21 22	7. The Trust was drafted by Vader’s attorney of 10 years, Darth Plaegus. Plaegus Decl., ¶¶ 2-3.	7. Undisputed.
23 24 25	8. Darth Plaegus was present at the time that Vader executed the Trust. Plaegus Decl., ¶ 3.	8. Undisputed.

<p>9. At the moment that Vader executed the Trust, he knew who his children were.</p> <p>Plaegus Decl., ¶ 4.</p>	<p>9. Disputed.</p> <p>Darth Plaegus is a Dark Lord of the Sith with the knowledge and ability to manipulate the minds of his clients. Andor Decl., ¶ 3, Exh. B (Plaegus Depo., pp.46:22-50:1).</p> <p>Darth Plaegus did not remember with any certainty whether he used the Dark Side of the Force to influence Vader’s memory at the time the Trust was executed. Andor Decl., ¶ 3, Exh. B (Plaegus Depo., p.50:2-22).</p>
<p>10. Luke Skywalker does not have evidence to support his allegation in the instant Petition that Vader did not know the natural objects of his bounty.</p> <p>Petition, ¶ 7; Maul Decl., ¶¶ 2, Exh. C (Skywalker Response to Special Interrogatory no. 4); ¶ 5, Exh. F (Skywalker Depo., pp.35:4-36:12)</p>	<p>10. Disputed.</p> <p>Expert witness Mace Windu opines that Vader was not likely to have sufficient memory to know who his family members were. Windu Decl.</p>
<p>11. At the moment that Vader executed the Trust, he knew what he owned.</p> <p>Plaegus Decl., ¶ 5.</p>	<p>11. Disputed.</p> <p>Darth Plaegus is a Dark Lord of the Sith with the knowledge and ability to manipulate the minds of his clients. Andor Decl., ¶ 3, Exh. B (Plaegus Depo., pp.46:22-50:1).</p> <p>Darth Plaegus did not remember with any certainty whether he used the Dark Side of the Force to influence Vader’s memory at the time the Trust was executed. Andor Decl., ¶ 3, Exh. B (Plaegus Depo., p.50:2-22).</p>

<p>12. Luke Skywalker does not have evidence to support his allegation in the instant Petition that Vader did not know the nature and extent of his property.</p> <p>Petition, ¶ 7; Maul Decl., ¶¶ 2, Exh. C (Skywalker Response to Special Interrogatory no. 7); ¶ 5, Exh. F (Skywalker Depo., pp.41:20-43:1)</p>	<p>12. Disputed.</p> <p>Expert witness Mace Windu opines that Vader was not likely to have sufficient memory to know who his family members were. Windu Decl.</p>
<p>13. Immediately prior to executing the Trust, Darth Plaegus asked Vader whether he understood that the Trust was designed to distribute property at Vader’s death, to which Vader answered that he did.</p> <p>Plaegus Decl., ¶ 6.</p>	<p>13. Disputed.</p> <p>Darth Plaegus is a Dark Lord of the Sith with the knowledge and ability to manipulate the minds of his clients. Andor Decl., ¶ 3, Exh. B (Plaegus Depo., pp.46:22-50:1).</p> <p>Darth Plaegus did not remember with any certainty whether he used the Dark Side of the Force to influence Vader’s memory at the time the Trust was executed. Andor Decl., ¶ 3, Exh. B (Plaegus Depo., p.50:2-22).</p>
<p>14. Luke Skywalker does not have evidence to support his allegation in the instant Petition that Vader did not know the nature and extent of his property.</p> <p>Petition, ¶ 7; Maul Decl., ¶¶ 2, Exh. C (Skywalker Response to Special Interrogatory no. 10); ¶ 5, Exh. F (Skywalker Depo., pp.50:3-52:15)</p>	<p>14. Disputed.</p> <p>Expert witness Mace Windu opines that Vader was not likely to have sufficient memory to know who his family members were. Windu Decl.</p>
<p>15. Vader was the one who supplied by e-mail all of the information that was inserted into the Trust distribution provisions.</p> <p>Plaegus Decl., ¶ 7, Exh. A.</p>	<p>15. Objection. See Objection no. 1.</p>

Issue 3: Darth Vader Was Not Unduly Influenced Into Executing the Darth Vader Revocable Trust

<u>Moving Party’s Undisputed Material Facts and Supporting Evidence</u>	<u>Opposing Party’s Response and Supporting Evidence</u>
<p>16. Darth Vader (“Vader”) executed the Darth Vader Revocable Trust (the “Trust”) on April 23, 2072.</p> <p>Petition, ¶ 16, Exh. A.</p>	<p>16. Undisputed.</p>
<p>17. The Trust was drafted by Vader’s attorney of 10 years, Darth Plaegus.</p> <p>Plaegus Decl., ¶¶ 2-3.</p>	<p>17. Undisputed.</p>
<p>18. Darth Plaegus was present at the time that Vader executed the Trust.</p> <p>Plaegus Decl., ¶ 3.</p>	<p>18. Undisputed.</p>
<p>19. The only other person present in the room at the time that Vader executed the Trust was Darth Plaegus’ legal assistant, Ahsoka Tano.</p> <p>Plaegus Decl., ¶ 3.</p>	<p>19. Disputed.</p> <p>Ashoka Tano testified that she observed Sith ghosts appearing and disappearing near Vader attempting to communicate with him. Andor Decl., ¶ 5, Exh. E (Tano Depo., pp.91:4-93:2).</p>
<p>20. Vader appeared to be physically healthy at the time that he executed the Trust.</p> <p>Plaegus Decl. ¶ 8.</p>	<p>20. Objection. See Objection no. 2.</p>
<p>21. Vader’s memory appeared to be completely in tact at the time that he executed the Trust.</p> <p>Plaegus Decl., ¶ 9.</p>	<p>21. Disputed.</p> <p>Expert witness Mace Windu opines that Vader was not likely to have sufficient memory to know who his family members were. Windu Decl.</p>

Date: _____

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6 SUPERIOR COURT OF CALIFORNIA

7 COUNTY OF CONTRA COSTA

8 In re the

Case No.: P74-00001

9 DARTH VADER REVOCABLE LIVING
10 TRUST.

BEN SOLO'S EVIDENTIARY
OBJECTIONS IN SUPPORT OF MOTION
FOR SUMMARY JUDGMENT OR
ALTERNATIVELY SUMMARY
ADJUDICATION

11 **OBJECTION NO. 1**

12 Material Objected To: Declaration of Mace Windu, in its entirety.

13 Grounds for Objection: Improper expert opinion (Evid. Code § 803); hearsay (Evid. Code §
14 1200(b)).

15 **OBJECTION NO. 2**

16 Material Objected To: Declaration of Mace Windu, ¶ 14 (“[**QUOTE OPINION BASED ON**
17 **MEDICAL RECORDS]**”)

18 Grounds for Objection: Hearsay (Evid. Code § 1200(b); People v. Sanchez (2016) 63 Cal.4th
19 665).

20 **OBJECTION NO. 3**

21 Material Objected To: Declaration of Mace Windu, Exh. C, in its entirety.

22 Grounds for Objection: Hearsay (Evid. Code § 1200(b); People v. Sanchez (2016) 63 Cal.4th
23 665).

24 BEN SOLO'S EVIDENTIARY OBJECTIONS IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT OR
25 ALTERNATIVELY SUMMARY ADJUDICATION - 1

1 Date: _____

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