
PARTIES/ATTORNEYS

Plaintiff	Bruno Marin Carillo	Stephens & Stephens LLP Conrad Stephens
Defendant	Jose Jesus Marin	Self-Represented

TENTATIVE RULING

Appearance is required to address the issues raised below.

On April 8, 2022, plaintiff Bruno Marin Carillo filed a complaint for sale by partition of real property located at 1315 DeJoy Street in Santa Maria held in joint tenancy by plaintiff Bruno Marin Carillo and defendant Jose Jesus Marin. On September 14, 2022, the clerk entered default against defendant. On October 11, 2022, the court entered a default judgment against defendant, ordered the property to be sold, set the terms for the sale, and ordered the proceeds be distributed equally after escrow paid off any existing liens or judgments, and after payment of \$3,540.03 from defendant's share to plaintiff's then attorney. To effectuate the sale, the court ordered defendant's agent to execute a listing agreement to sell the property and if defendant's agent was not available to sign the listing agreement within seven days of the date of the order, the court would appoint an elisor to sign the listing agreement. On March 1, 2023, the court appointed the "Clerk of The Court [or] Clerk's Designee" as elisor to sign the listing agreement and ordered the funds from the sale to be held in escrow subject to the court's approval for release. On May 5, 2023, court clerk Norma Willoughby signed the documents.¹

On July 24, 2025, plaintiff filed another request for an order appointing an elisor to sell real property. It was served by mail on July 24, 2025. There is no opposition.

An elisor is a person appointed by the court to perform functions like the execution of a deed or document. A court typically appoints an elisor to sign documents on behalf of a recalcitrant party to effectuate its judgments or orders, where the party refuses to execute such documents. (Code Civ. Proc., § 128, subd. (a)(4), "[e]very court shall have the power [¶] ... [¶] [t]o compel obedience to its judgments, orders, and process, and to the orders of a judge out of court, in an

¹ The Listing Agreement granted the listing agent exclusive authority to sell the property beginning October 24, 2023 and ending on March 31, 2023. It is unclear from this record whether the Listing Agreement was effective for any period of time after it was executed.

action or proceeding pending therein.”) Section 128 has codified the principle of “[t]he inherent power of the trial court to exercise reasonable control over litigation before it, as well as the inherent and equitable power to achieve justice and prevent misuse of processes lawfully issued....” (*Blueberry Properties, LLC v. Chow* (2014) 230 Cal.App.4th 1017, 1021.)

Here, plaintiff states “Jose Jesus Marin does not want anything to do with this process and has refused to participate in any fashion.” (Carillo Decl., ¶ 2.) He does not describe the efforts made to obtain his signature on the documents necessary to list the property for sale. While it is clear that entry of defendant's default instantaneously cuts off his right to appear in the action (*Devlin v. Kearny Mesa AMC/Jeep/Renault, Inc.* (1984) 155 Cal.App.3d 381, 385-386), he or his agent were ordered to execute the listing agreement and related documents. An effort must be made to obtain that signature. Plaintiff should be prepared to describe those efforts to the court.

Moreover, two years have passed since the court last authorized an elisor to execute a listing agreement and related documents on behalf of defendant, and more specifically, since the court ordered how the proceeds of the sale would be divided. The instant request suggests that order may need to be revised depending on how the property was managed in the interim period. Was it rented or otherwise occupied? Were the proceeds of any such rent shared equally? Must an order be made equalizing the distribution? Plaintiff should be prepared to address these issues at the hearing.

The parties are instructed to appear at the hearing for oral argument. Appearance by Zoom Videoconference is optional and does not require the filing of Judicial Council form RA-010, Notice of Remote Appearance. (See [Remote Appearance \(Zoom\) Information | Superior Court of California | County of Santa Barbara](#).)