05-03-24
Dept. 9
Tentative Rulings

1. 24CV0481 IN THE MATTER OF TIMOTHY SAUER

Petition for Order Permitting Pre-Commencement Discovery

TENTATIVE RULING #1: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON FRIDAY, MAY 3, 2024, IN DEPARTMENT NINE.

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 621-6551 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07; SEE ALSO LEWIS V. SUPERIOR COURT, 19 CAL.4TH 1232, 1247 (1999).

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2. PCL20180059 BENNETT v. RELIABLE MANPOWER, INC.

Motion to Amend Judgment to Include Successor Corporation

Janice Bennett was an employee of a retail store, Alpine Market, which was owned by Reliant Manpower, Inc., a California corporation. Reliant Manpower, in turn, was owned by Sheeva, Inc. Ms. Bennet obtained an award against Reliant Manpower, Inc., from the California Labor Commission on October 2, 2017, which was reduced to a civil judgment on February 7, 2018. Reliable Manpower, Inc. is currently a suspended corporation. Exhibit 1 to Amended Motion to Amend Judgment to Include Successor Corporation (filed March 7, 2024) ("March 7 Motion"). Sheeva, Inc. is also listed as a Defendant in the original judgment, as the parent corporation of Reliant Manpower, Inc. Although the judgment did not hold the parent company liable for the wage claims against the subsidiary, see Labor Commission Order, Case No. 08-77793 JS (Exhibit to March 7 Motion) at p. 6, the judgment does establish the corporate relationship of Reliant and Sheeva, Inc.

Ms. Bennet subsequently assigned the claim to George Sommers pursuant to Code of Civil Procedure § 673. On August 30, 2023, Sommers ("Assignee") filed a motion to amend the judgment to include Tahoe Green 2022, alleged to be the successor corporation to the judgment debtor Reliant Manpower, Inc. An amended motion was filed on March 7, 2024.

The motion argues that Tahoe Green 2022 should be added to the judgment based on the following indicators of a shared identity between Bennett's employers and Tahoe Green 2022:

<u>Judicial Notice</u>

Pursuant to the Tentative Rulings for the hearings on March 22 and 29, 2024, the court continued this matter in part to give Tahoe Green 2022 an opportunity to object to the court taking judicial notice of public corporate records held by agencies of the State of California. No objection has been received since Tahoe Green 2022 and its counsel was served with notice on April 11-12, 2024. Further, Tahoe Green was represented by counsel at the hearing of March 29, 2024, and was apprised of the issue at that hearing. As such, the court on its own motion takes judicial notice of the information filed from the Secretary of State or Alcohol Beverage Control licensing websites consistent with Evidence Code § 455.

<u>Motion to Amend Judgment</u>

Bennett was employed by two liquor stores, Alpine Market, located at 1950 Lake Tahoe Blvd. in South Lake Tahoe (Alcoholic Beverage Control License number 636253) and Green Tahoe, located at 3097 Harrison Ave., #2 in South Lake Tahoe (Alcoholic Beverage Control License number 636082)

Tahoe Green 2022 owned ABC License No. 636082 under the same name and operated from the same address as Green Tahoe, with Hossein Kazemi is listed as an officer of the licensee. Motion to Amend Judgment to Include Successor, filed August 30, 2023 ("August 30 Motion"), Exhibit 1.

Tahoe Green 2022 owned ABC License No. 636253 under the same name and operated from the same address as Alpine Market, with Hossein Kazemi is listed as an officer of the licensee. August 30 Motion, Exhibit 2.

Hossein Kazemi is listed as Director/CEO/Secretary/CFO and Agent for Service of Process of Tahoe Green 2022 on the Secretary of State's website. April 8 Motion, Exhibit 3.

According to Assignee's Motion to Amend Judgment to Include Successor Corporation, filed on April 8, 2024 ("April 8 Motion"), Tahoe Green 2022 has transferred the two liquor licenses since the February 16, 2024 hearing, with notices of sale posted at the two locations on February 15, and 16, 2024. April 8 Motion, Exhibits 4 and 5. The new owner is identified as Behram Inc. and Konorak, Inc. Id. Assignee Sommers notes that the address of Behram Inc. and Konorak, Inc. is the same as the address of record of Reliable Manpower, Inc., the judgment debtor. April 8 Motion, Exhibits 4, 5 and 6. The real property is owned by Sunset & Bronson, Inc., of which Hossein Kazemi is the Chief Financial Officer. April 8 Motion, Exhibit 10.

Assignee Sommers also notes that, with respect to this recent transfer, Civil Code § 3439.04 makes transfers voidable as to a creditor when made by a debtor if the debtor made the transfer "with actual intent to hinder, delay, or defraud any creditor of the debtor." Civil Code § 3439.04(a)(1).

Labor Code § 1434 provides:

> A successor employer is liable for any wages, damages, and penalties its predecessor employer owes to any of the predecessor employer's former workforce if the successor employer meets any of the following criteria: . . . (b) Shares in the ownership, management, control of the labor relations, or interrelations of business operations with the predecessor employer.

Labor Code § 200.3 further provides:

(a) A successor to a judgment debtor shall be liable for any wages, damages, and penalties owed to any of the judgment debtor's former workforce pursuant to a final judgment, after the time to appeal therefrom has expired and for which no appeal therefrom is pending. Successorship is established upon meeting any of the following criteria:

(1) Uses substantially the same facilities or substantially the same workforce to offer substantially the same services as the judgment debtor. . . .

(2) Has substantially the same owners or managers that control the labor relations as the judgment debtor.

* * *

Assignee Sommers argues that the test of Labor Code § 200.3 is met in this case because the judgment is final and the time for appeal has expired; the liquor stores are in the same location as the judgment debtor, Kazemi is an officer of Tahoe Green 2022 and the judgment debtor, and the liquor store business is the same as between Tahoe Green 2022 and the judgment debtor.

Assignee Sommers cites the case of Wolf Metals Inc. v. Rand Pac. Sales, Inc., 4 Cal. App. 5th 698 (2016) in support of this motion. That case described the alter ego theory of corporate liability as follows:

> Modification of a judgment may be proper when the newly-named defendant is an existing defendant's alter ego. (*McClellan*, *supra*, 89 Cal.App.4th at pp. 752–757, 107 Cal.Rptr.2d 702.) "Under the alter ego doctrine, ... when the corporate form is used to perpetrate a fraud, circumvent a statute, or accomplish some other wrongful or inequitable purpose, the courts will ignore the corporate entity and deem the corporation's acts to be those of the persons ... actually controlling the corporation, in most instances the equitable owners. [Citations.] The alter ego doctrine prevents individuals ... from misusing the corporate laws by the device of a sham corporate entity formed for the purpose of committing fraud or other misdeeds. [Citation.]" (*Sonora Diamond Corp. v. Superior Court* (2000) 83 Cal.App.4th 523, 538, 99 Cal.Rptr.2d 824.)

The Wolf court also described the "successor corporation" theory as follows:

> Modification of a judgment may also be proper under the "successor corporation" theory. (*McClellan*, *supra*, 89 Cal.App.4th at pp. 753, 754–756, 107 Cal.Rptr.2d 702, italics omitted.) According to that theory, when a corporation sells or transfers all of its assets to another corporation constituting its " 'mere continuation,'[1] " the latter is also liable for the former's debts and liabilities. (*Id*. at p. 754, fn. 4, 107 Cal.Rptr.2d 702, quoting *Ray v. Alad Corp.* (1977) 19 Cal.3d 22, 29, 136 Cal.Rptr. 574, 560 P.2d 3.) Generally, " 'California decisions holding that a corporation acquiring the assets of another

[1] "[A] purchaser of assets has successor liability if " '(1) there is an express or implied agreement of assumption, (2) the transaction amounts to a consolidation or merger of the two corporations, (3) the purchasing corporation is a mere continuation of the seller, or (4) the transfer of assets to the purchaser is for the fraudulent purpose of escaping liability for the seller's debts.' " (*Cleveland v. Johnson* (2012) 209 Cal.App.4th 1315, 1327, 147 Cal.Rptr.3d 772 (*Cleveland*).)" Rubio v. CIA Wheel Grp., 63 Cal. App. 5th 82, 102 (2021).

corporation is the latter's mere continuation and therefore liable for its debts have imposed such liability only upon a showing of one or both of the following factual elements: (1) no adequate consideration was given for the predecessor corporation's assets and made available for meeting the claims of its unsecured creditors; (2) one or more persons were officers, directors, or stockholders of both corporations. [Citations.]' " (*McClellan*, *supra*, 89 Cal.App.4th at p. 754, fn. 4, 107 Cal.Rptr.2d 702, quoting *Ray*, *supra*, 19 Cal.3d at p. 29, 136 Cal.Rptr. 574, 560 P.2d 3.)

In view of the nexus between a corporation and a second corporation constituting its " 'mere continuation,' " when a judgment is entered against the former due to a failure to present a defense, the judgment may be modified to name the latter as an additional judgment debtor without contravening due process. (*McClellan*, *supra*, 89 Cal.App.4th at pp. 754, fn.4 & 754–757, 107 Cal.Rptr.2d 702.)

* * *

Under [the "successor corporation"] theory, " 'corporations cannot escape liability by a mere change of name or a shift of assets when and where it is shown that the new corporation is, in reality, but a continuation of the old. Especially is this well settled when actual fraud or the rights of creditors are involved, under which circumstances the courts uniformly hold the new corporation liable for the debts of the former corporation.' " (*Cleveland v. Johnson* (2012) 209 Cal.App.4th 1315, 1327, 147 Cal.Rptr.3d 772 (*Cleveland*), quoting *Blank v. Olcovich Shoe Corp.* (1937) 20 Cal.App.2d 456, 461, 67 P.2d 376.) The application of the theory presents "equitable issues to be examined 'on their own unique facts....' " (*Cleveland*, *supra*, 209 Cal.App.4th at p. 1330, 147 Cal.Rptr.3d 772, quoting *CenterPoint Energy, Inc. v. Superior Court* (2007) 157 Cal.App.4th 1101, 1122, 69 Cal.Rptr.3d 202.)

Wolf Metals Inc. v. Rand Pac. Sales, Inc., 4 Cal. App. 5th 698, 703-705, 709 (2016).

"'The decision to grant an amendment in such circumstances lies in the sound discretion of the trial court. "The greatest liberality is to be encouraged in the allowance of such amendments in order to see that justice is done."' (*Carr v. Barnabey's Hotel Corp.,* at p. 20, 28 Cal.Rptr.2d 127.)"

Greenspan v. LADT, LLC, 191 Cal. App. 4th 486, 508 (2010), citing Carr v. Barnabey's Hotel Corp., 23 Cal. App. 4th 14, 20 (1994).

"[S]uccessor liability, like alter ego and similar principles, is an equitable doctrine. As with other equitable doctrines, 'it is appropriate to examine successor liability issues on their own unique facts' and '[c]onsiderations of fairness and equity apply.' " (*Cleveland, supra*, 209 Cal.App.4th at p. 1330, 147 Cal.Rptr.3d 772.)

Rubio v. CIA Wheel Grp., 63 Cal. App. 5th 82, 101–02 (2021).

See also, Fall River Dyeing & Finishing Corp. v. N.L.R.B., 482 U.S. 27, 43, 107 S. Ct. 2225, 2236, 96 L. Ed. 2d 22 (1987), which discussed the approach taken by courts in determining whether a new company is a successor to the former corporation:

> This approach, which is primarily factual in nature and is based upon the totality of the circumstances of a given situation, requires that the Board focus on whether the new company has "acquired substantial assets of its predecessor and continued, without interruption or substantial change, the predecessor's business operations." *Golden State Bottling Co. v. NLRB,* 414 U.S., at 184, 94 S.Ct., at 425. Hence, the focus is on whether there is "substantial continuity" between the enterprises. Under this approach, the Board examines a number of factors: whether the business of both employers is essentially the same; whether the employees of the new company are doing the same jobs in the same working conditions under the same supervisors; and whether the new entity has the same production process, produces the same products, and basically has the same body of customers.

Fall River Dyeing & Finishing Corp., 482 U.S. at 43.

The court finds good cause to grant Plaintiff's motion to add Tahoe Green 2022 to the judgment as a successor corporation to Reliant Manpower, Inc. The record indicates a substantial shared identity between the constellation of corporations involved in this case that share business addresses, corporate officers and business operations.

At the hearing on February 16, 2024, the court granted Tahoe Green's motion to quash service and ordered Assignee Sommers to serve all documents in the case. Proofs of service were filed on April 17, 2024, indicating personal service was made on Tahoe Green 2022, Tahoe Green 2022's counsel on April 11 and 12, 2024, and on Behram Inc. and Konorak, Inc. on April 16, 2024.

TENTATIVE RULING #2: ASSIGNEE SOMMER'S MOTION TO AMEND JUDGMENT TO INCLUDE SUCCESSOR CORPORATION IS GRANTED.

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 621-6551 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07; SEE ALSO LEWIS V. SUPERIOR COURT, 19 CAL.4TH 1232, 1247 (1999).

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COUNTY LOCAL RULE 8.05.07. PROOF OF SERVICE OF SAID NOTICE MUST BE FILED PRIOR TO OR AT THE HEARING.

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3. PC20190064 MEDINA v. EL DORADO SENIOR CARE

Motion for Sanctions

Defendants requests the court to impose sanctions for violation of Evidence Code § 1152 in an amount sufficient to compensate for the costs incurred in bringing the motion and for additional amounts as a deterrence.

Defendants claim is based on the Plaintiffs' Supplemental Brief re "Follow Up to February 23, 2024, Hearing Re Calculation of Plaintiffs' Damages and Interest Thereon", filed on March 8, 2024. The pleading included attached exhibits and correspondence related to settlement discussions that did not lead to a settlement agreement. Defendants argue that the pleading disclosed the substance of settlement negotiations.

Plaintiffs' counsel filed a declaration stating that, at the time the pleading was filed, "we believed we had reached agreements on the amounts of the remaining damages, with the only issue outstanding being whether the prejudgment interest rate on liquidated damages is 7% or 10%", and that Plaintiffs did not learn that the Defendants in fact did not agree to the resolution of the matter of damages until the hearing on March 25, 2024. Declaration of Michael Harrington, dated April 22, 2024 ("Harrington Declaration"), at ¶¶2, 4.

Evidence Code § 1152(a) provides:

> Evidence that a person has, in compromise or from humanitarian motives, furnished or offered or promised to furnish money or any other thing, act, or service to another who has sustained or will sustain or claims that he or she has sustained or will sustain loss or damage, as well as any conduct or statements made in negotiation thereof, is inadmissible to prove his or her liability for the loss or damage or any part of it.

Code of Civil Procedure § 128.5 provides:

> A trial court may order a party, the party's attorney, or both, to pay the reasonable expenses, including attorney's fees, incurred by another party as a result of actions or tactics, made in bad faith, that are frivolous or solely intended to cause unnecessary delay.

Section 128.5 also requires a "safe harbor" period of 21 days, as described in subsection (f)(1)(B):

> (f) Sanctions ordered pursuant to this section shall be ordered pursuant to the following conditions and procedures:
>
> (1) If, after notice and a reasonable opportunity to respond, the court issues an order pursuant to subdivision (a), the court may, subject to the conditions stated below, impose an appropriate sanction upon the party, the party's attorneys, or both, for an action or tactic described in subdivision (a). In determining what sanctions, if any, should

be ordered, the court shall consider whether a party seeking sanctions has exercised due diligence.

* * *

(B) If the alleged action or tactic is the making or opposing of a written motion or the filing and service of a complaint, cross-complaint, answer, or other responsive pleading that can be withdrawn or appropriately corrected, a notice of motion shall be served as provided in Section 1010, but shall not be filed with or presented to the court, unless 21 days after service of the motion or any other period as the court may prescribe, the challenged action or tactic is not withdrawn or appropriately corrected.

The court declines to impose sanctions for three reasons. First, Defendants did not comply with Section 128.5 (f)(1)(B)'s safe harbor requirements. Second, Evidence Code § 1152 makes settlement discussions inadmissible as to liability, and the liability determination had already been made in this case when the pleading was filed. Third, based on the Harrington Declaration, the court finds that the pleading was filed at a time that Plaintiffs were operating with the understanding that agreement had already been reached on outstanding issues of damages, such that there is no support for the conclusion that the pleading was frivolous, filed in bad faith or with an improper motive.

TENTATIVE RULING #3: DEFENDANTS' MOTION FOR SANCTIONS IS DENIED.

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4. 23CV1110 WINN v. CHARITABLE SOLUTIONS, LLC

Motion to Quash Deposition Subpoena

The underlying action is a claim by Plaintiff of a right to purchase property based on an alleged 2016 purchase and sale agreement which Plaintiff claims was assigned to her in 2017. Plaintiff seeks to cancel the instruments conveying certain real property to the most recent buyers.

This motion seeks to quash the sole exercise of discovery exercised by Plaintiff in this action, a deposition subpoena directed at a non-party to the action, the real estate broker, the Vollman Company ("Vollman") which represented the non-party seller, Safari Vineyard Estates, LLC as well as the Defendants Yes 2 Ventures/Safari Wineries, Inc. ("Defendants") when they acquired the property in 2023. Defendants argue that the subpoena is overbroad and violative of privacy rights of Defendants and other clients of Vollman who are not party to the dispute.

As an alternative to quashing the deposition subpoena, Defendants request that the scope of the subpoena be limited to documents that refer to Plaintiff, the 2016 contract and the 2017 assignment alleged by Plaintiff.

The motion is unopposed.

Plaintiff served a deposition subpoena on December 19, 2023, and demanded a response by December 26, 2023. Notice of Motion to Quash, Exhibit 6. Objections were provided by letter dated December 19, 2023, which also objected to the short response time and the expectation of a response over the Christmas holiday. Notice of Motion to Quash, Exhibit 7. Plaintiff never filed a motion to compel with respect to that subpoena, and so pursuant to Code of Civil Procedure § 2025.480(b) the time to file a motion to compel has expired.

After receiving Defendants' objections, Plaintiff filed a duplicate deposition subpoena on December 20, 2023, with a return date of January 30, 2024. Notice of Motion to Quash, Exhibit 8. The parties later agreed on a response date of March 29, 2024. Notice of Motion to Quash, Exhibit 9.

Following are the requests at issue:

1. DOCUMENT REQUEST NO. 1: Copies of any and all correspondence, emails, text messages, note , memoranda, transmittals and/or other writings between YOU (You means Dan Mincher and/or any other agent, representative or employee of Vollman) and Charitable Solutions, LLC which concern, relate, and/or refer to the sale of any parcel or parcels of Safari Estates aka Pilot Hill Crossing for the period of January 1, 2018 through the present.

2. DOCUMENT REQUEST NO. 2: Copies of any and all correspondence, emails, text messages, notes, memoranda, transmittals and/or other writings between YOU and Yes Ventures, Inc. and/or any principal, representative or agent of Yes Ventures, Inc. which concern, relate, and/or refer to Safari Estates aka Pilot Hill Crossing for the period January 1, 2018 to the present.
3. DOCUMENT REQUEST NO. 3: Copies of any and all correspondence, emails, text messages, notes, memoranda, transmittals and/or other writings between YOU and Yes Ventures, Inc. and/or any principal, representative or agent of Safari Wineries, Inc. Inc. which concern, relate, and/or refer to Safari Estates aka Pilot Hill Crossing for the period January 1, 2018 to the present.
4. DOCUMENT REQUEST NO. 4: Copies of any and all agreements, contracts, and/or agent agreements between YOU and any other person or entity which concerns, relates, and/or refers to Safari Estates aka Pilot Hill Crossing for the period January 1, 2018 to the present.
5. DOCUMENT REQUEST NO. 4 (sic): Copies of any and all agreements, contracts, and/or agent agreements between YOU and any other person or entity which concerns, relates, and/or refers to Safari Estates aka Pilot Hill Crossing for the period January 1, 2018 to the present.

Plaintiff argues that the requests for information exceed the legitimate scope of discovery. Plaintiffs argue that the only relevance of materials that may be in the possession of Vollman is whether they support the validity of Plaintiff's claims. Any other communications about the property, negotiations to sell the property, discussions about finances, or other information is not a proper subject of discovery unless it refers Winn or the basis for her claims. Specifically:

1. All Requests seek any information/communications that "concerns, relates, and/or refers to Safari Estates aka Pilot Hill Crossing for the period January 1, 2018 to the present", and as such, are overbroad.
2. Requests related to interactions between Vollman and non-party owners between 2016 and 2023, when it was acquired by Defendants, is overbroad and not likely to lead to the discovery of information relevant to Plaintiff's claims.
3. Requests related to interactions between Vollman and prior owners between 2016 and 2023, that do not directly pertain to information supporting Plaintiff's claims is violative of the privacy of the non-parties whose information and communications is requested, as well as requiring disclosure of Vollman's proprietary information.
4. To the extent Plaintiff sought information/communications exchanged between Vollman and Defendants, Plaintiff has not served any discovery on the Defendants, but instead used her sole exercise of discovery to request this information from a non-party. (Requests Nos. 2 and 3).
5. The Second Request No. 4 (misnumbered) is entirely irrelevant to the dispute, and, unlimited in scope, is overbroad.

6. The last two requests seek information and communications between Vollman and "any other person or entity". (Requests Nos. 4 and 4)

The court agrees that the deposition subpoena is overbroad because it seeks information that is not likely to lead to admissible evidence in this case. The court adopts the solution offered by Defendants to limit the scope of the subpoena to those materials that that refer to the Plaintiff, to the 2016 contract and the alleged 2017 assignment that are relevant to this case.

TENTATIVE RULING #4: DEFENDANT'S MOTION TO LIMIT THE SCOPE OF PLAINTIFFS' DECEMBER 20, 2023, DEPOSITION SUBPOENA TO ANY RECORDS WITHIN THE PARAMETERS OF THOSE REQUESTS THAT REFER TO PLAINTIFF, TO THE DECEMBER 10, 2016, REAL PROPERTY AGREEMENT AND/OR THE MAY 30, 2017, ASSIGNMENT TO PLAINTIFF THAT ARE AT ISSUE IN THIS MATTER.

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5. 23CV1459 NAME CHANGE OF WEATHERSPOON

Petition for Name Change

Petitioner filed a Petition for Change of Name on August 25, 2023.

There is nothing in the court's records indicating that the OSC has been published in a newspaper of general circulation for four consecutive weeks as required by Code of Civil Procedure § 1277(a). Petitioner must file the OSC in a newspaper of general circulation in El Dorado County for four consecutive weeks. Proof of publication is to be filed with the court prior to the next hearing date.

A background check has been filed with the court as required by Code of Civil Procedure § 1279.5(f).

The hearing on this matter is continued to allow Petitioner time to file proof of publication with the court.

TENTATIVE RULING #5: THIS MATTER IS CONTINUED TO 8:30 A.M. ON FRIDAY, JUNE 14, 2024, IN DEPARTMENT NINE TO ALLOW PETITIONER TIME TO FILE PROOF OF PUBLICATION WITH THE COURT.

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 621-6551 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07; SEE ALSO LEWIS V. SUPERIOR COURT, 19 CAL.4TH 1232, 1247 (1999).

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LONG CAUSE HEARINGS MUST BE REQUESTED BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED AND THE PARTIES ARE TO PROVIDE THE COURT WITH THREE MUTUALLY AGREEABLE DATES ON FRIDAY AFTERNOONS AT 2:30 P.M. LONG CAUSE ORAL ARGUMENT REQUESTS WILL BE SET FOR HEARING ON ONE OF THE THREE MUTUALLY AGREEABLE DATES ON FRIDAY AFTERNOONS AT 2:30 P.M. THE COURT WILL ADVISE THE PARTIES OF THE LONG CAUSE HEARING DATE AND TIME BY 5:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. PARTIES MAY PERSONALLY APPEAR AT THE HEARING. IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.

6. PC20190309 CITY OF ROCKLIN v. LEGACY FAMILY ADVENTURES

Motion for Summary Adjudication – Legacy Family Adventures
Motion for Summary Judgment – City of Rocklin

As a threshold issue, Plaintiff objects to the court's consideration of Defendant's Motion for Summary Adjudication as the Notice of Motion for the May 3, 2024 hearing was not served until February 22, 2024, less than the 75 days of notice required under CCP § 437c. This is despite the fact that Plaintiff stipulated on February 20, 2024, approved by the court on February 22, 2024, to advance the initial hearing date of September 6, 2024 to May 3, 2024. The court is mindful that even had the court approved the stipulation the day it was signed by the parties, on February 20, 2024, and the notice been served that same day, there still would not have been 75 days advance notice for the May 3, 2024 hearing. Rather, May 6, 2024 would have been earliest possible hearing date to comply with the code. Had the parties instead stipulated to a hearing date a week or two later, with the court finding good cause to schedule the hearing less than 30 days in advance of the June 4, 2024 trial, this procedural defect could have been avoided altogether.

Upon the court's review of the relevant case law, the court agrees with Plaintiff that a new initial hearing date requires a new notice at least 75 days prior to the hearing. The court finds this to be the case regardless of the fact that the motion had already been served on Plaintiff, albeit with notice of the original September 6, 2024 hearing date. Therefore, the court finds it is deprived of the ability to hear Defendant's motion on the currently-scheduled date.

However, the court finds that it would be a miscarriage of justice to not allow Defendant to have the issues raised in the motion adjudicated on their merits, particularly under these circumstances. At best, the mishap in selecting the May 3, 2024 date was a miscalculation by both sides. At worst, it represents gamesmanship on behalf of Plaintiff. Regardless, the court is determined to have this case resolved on its merits. As such, the court finds good cause to continue the trial to allow Defendant to re-file its motion for a hearing date that complies with the statutory timeframes under CCP § 437c. Parties are ordered to appear to select new trial dates, a date for the anticipated re-filed motion, and the resetting of any other related dates.

The court notes that there are rulings still pending on Plaintiff's MSJ and Motion in Limine #6. At the May 3, 2024 hearing, the court will determine a timeline for resolving these issues. Parties may appear remotely at the May 3, 2024 hearing.

TENTATIVE RULING #6: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON FRIDAY, MAY 3, 2024, IN DEPARTMENT NINE.

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 621-6551 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07; SEE ALSO LEWIS V. SUPERIOR COURT, 19 CAL.4TH 1232, 1247 (1999).

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7. PC20210494 ALLLIANCE ONE v. JODAR VINEYARDS, ET AL

Order of Examination Hearing

TENTATIVE RULING #7: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON FRIDAY, MAY 3, 2024, IN DEPARTMENT NINE.

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 621-6551 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07; SEE ALSO LEWIS V. SUPERIOR COURT, 19 CAL.4TH 1232, 1247 (1999).

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8. PC20200061 BARNUM v. ROUNDAY PROPERTIES ET AL

Order of Examination Hearing

TENTATIVE RULING #8: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON FRIDAY, MAY 3, 2024, IN DEPARTMENT NINE.

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 621-6551 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07; SEE ALSO LEWIS V. SUPERIOR COURT, 19 CAL.4TH 1232, 1247 (1999).

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9. 23CV1890 MURATORI ET AL v. TURNER ET AL

Order of Examination Hearing

TENTATIVE RULING #9: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON FRIDAY, MAY 3, 2024, IN DEPARTMENT NINE.

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 621-6551 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07; SEE ALSO LEWIS V. SUPERIOR COURT, 19 CAL.4TH 1232, 1247 (1999).

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10. 24CV0459 NAME CHANGE OF MOGHADAM

Petition for Name Change

Petitioner filed a Petition for Change of Name on March 8, 2024.

Proof of publication was filed on April 15, 2024**,** as required by Code of Civil Procedure § 1277(a).

A background check has been filed with the court as required by Code of Civil Procedure § 1279.5(f).

TENTATIVE RULING #10: ABSENT OBJECTION, THE PETITION IS GRANTED AS REQUESTED.

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 621-6551 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07; SEE ALSO LEWIS V. SUPERIOR COURT, 19 CAL.4TH 1232, 1247 (1999).

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