1. BUGAISKI v. SONNY'S BARBEQUE SHACK, ET AL., SC20190161

Final Account of Settlement

TENTATIVE RULING # 1: PLAINTIFFS' REQUEST FOR FINAL APPROVAL PURSUANT TO THEIR MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT IS GRANTED. NO HEARING ON THIS MATTER WILL BE HELD (*LEWIS v. SUPERIOR COURT* (1999) 19 CAL.4TH 1232, 1247), UNLESS A NOTICE OF INTENT TO APPEAR AND REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 573-3042 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. NOTICE TO ALL PARTIES OF AN INTENT TO APPEAR MUST BE MADE BY TELEPHONE OR IN PERSON. PROOF OF SERVICE OF SAID NOTICE MUST BE FILED PRIOR TO OR AT THE HEARING.

2. CALLAHAN v. POTTS, ET AL., 23CV0236

Motion for Reconsideration

On June 13, 2025, the court denied defendants' motion for summary judgment (the "June 13 order"). On June 26, 2025, pursuant to Code of Civil Procedure section 1008, subdivision (a), defendants filed the instant motion for reconsideration.[1]

A motion for reconsideration under Code of Civil Procedure section 1008 must be "based on new or different facts, circumstances, or law," and the "party seeking reconsideration also must provide a satisfactory explanation for the failure to produce the evidence at an earlier time." (*New York Times Co. v. Superior Court* (2005) 135 Cal.App.4th 206, 212.) The motion is timely if it is brought within 10 days after service of the notice of entry of the order upon the party.[2]

Here, defendants claim this court's April 28, 2025, order (the "April 28 order") denying plaintiff's motion to compel arbitration constitutes new or different facts, circumstances or law because the court did not substantively consider or address said order in the June 13 order denying defendants' motion for summary judgment. However, the court's April 28 order does not present any new or different facts, circumstances, or law justifying reconsideration of the June 13 order under Code of Civil Procedure section 1008.

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[1] On June 27, 2025, plaintiff filed a notice of appeal regarding the court's April 28, 2025, order denying his motion to compel arbitration. Said appeal is currently pending. Prior to January 1, 2024, perfecting of an appeal from denial of a motion to compel arbitration stayed the trial court proceedings. (See Code Civ. Proc., § 916, subd. (a).) Effective January 1, 2024, Code of Civil Procedure section 1294, subdivision (a) now provides that "the perfecting of such an appeal [from denial of a motion to compel arbitration] shall not automatically stay any proceedings in the trial court during the pendency of the appeal." (*Ibid.*)

[2] The court deems the instant motion timely because there is no proof of service for the notice of entry of the court's June 13 order in the court's file showing otherwise. The court issued a tentative ruling on June 12, 2025. None of the parties requested oral argument. At the hearing on June 13, 2025, there were no appearances. Pursuant to Local Court Rule 8.05.07, the court adopted the tentative ruling as its final ruling.

The primary issue in the April 28 order was whether plaintiff waived his right to compel arbitration at that stage in the proceedings. The court concluded that, as of April 2025, plaintiff had waived his right to compel arbitration because plaintiff's actions (over the prior, almost two years since filing suit) were inconsistent with enforcing the right to arbitrate, the litigation machinery had been substantially invoked, plaintiff delayed for a long period before seeking an order to arbitrate, and the delay prejudiced defendants.

Defendants argue that the court's April 28 finding that plaintiff waived his right to compel arbitration necessarily means that defendants are entitled to summary judgment on the grounds that plaintiff failed to arbitrate. That is incorrect. As discussed in the court's June 13 order, the main issue on summary judgment was whether plaintiff pursued or attempted to pursue his arbitration/mediation remedy prior to filing suit (on February 14, 2023). The mere fact that, by April 2025, plaintiff had waived his right to compel arbitration via court order would not change the court's finding that there is a triable issue of material fact as to whether plaintiff "pursued" or "attempted to pursue" his arbitration/mediation remedy prior to filing suit.

In sum, defendants' motion is not based on any new or different facts, circumstances, or law; and further, the April 28 order would not change the court's ultimate ruling to deny summary judgment for defendants.

The court also notes it issued a tentative ruling denying defendants' motion for summary judgment prior to the hearing on June 13, 2025. There were no requests for oral argument and no appearances at the summary judgment hearing. Pursuant to Local Court Rule 8.05.07, the court adopted the tentative ruling as the June 13 order. Defendants provide no explanation why they did not request oral argument on the tentative ruling and raise the issue of the April 28 order at that time.

The motion for reconsideration is denied.

TENTATIVE RULING # 2: MOTION FOR RECONSIDERATION IS DENIED. NO HEARING ON THIS MATTER WILL BE HELD (*LEWIS v. SUPERIOR COURT* (1999) 19 CAL.4TH 1232, 1247), UNLESS A NOTICE OF INTENT TO APPEAR AND REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 573-3042 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. NOTICE TO ALL PARTIES OF AN INTENT TO APPEAR MUST BE MADE BY TELEPHONE OR IN PERSON. PROOF OF SERVICE OF SAID NOTICE MUST BE FILED PRIOR TO OR AT THE HEARING.

3. PODUSKA, ET AL. v. YBENV, INC. ET AL., 25CV1530

Petition to Release Property from Mechanic's Lien

This matter was originally set for July 11, 2025. On July 10, 2025, the court issued an amended tentative ruling granting the petition to release property from the mechanics lien (El Dorado County Records, Instrument No. 2024-0033424), and denying the request for attorney fees without prejudice, as petitioner did not cite any legal authority for an award of attorney fees in this case.

None of the parties requested oral argument. (See Local Court Rule 8.05.07.) When the court called the case at the hearing on July 11, 2025, no appearances were made and the court initially adopted the tentative ruling. However, respondent Todd Youngblood appeared a few minutes later and the court recalled the case. Youngblood indicated he was not properly served with the petition. The court advised Youngblood of the Department 4 Tentative Ruling System and continued the matter to August 22, 2025.

Proof of service filed July 18, 2025 (and again on July 31, 2025), shows that the petition was personally served upon Youngblood on July 3, 2025.

TENTATIVE RULING # 3: THE PETITION TO RELEASE PROPERTY FROM MECHANICS LIEN IS GRANTED. THE REQUEST FOR ATTORNEY FEES IS DENIED WITHOUT PREJUDICE. NO HEARING ON THIS MATTER WILL BE HELD (*LEWIS v. SUPERIOR COURT* (1999) 19 CAL.4TH 1232, 1247), UNLESS A NOTICE OF INTENT TO APPEAR AND REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 573-3042 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. NOTICE TO ALL PARTIES OF AN INTENT TO APPEAR MUST BE MADE BY TELEPHONE OR IN PERSON. PROOF OF SERVICE OF SAID NOTICE MUST BE FILED PRIOR TO OR AT THE HEARING.

4. STEPHENS v. LAUB LAW PLCC, 25CV1050

Demurrer

On May 28, 2025, defendant Jordan Morgenstern ("defendant") filed a general and special demurrer to plaintiff's complaint.

A hearing on the demurrer was initially set for July 18, 2025. However, the court continued the matter to August 22, 2025, for defendant to satisfy the meet and confer requirement under Code of Civil Procedure section 430.41, subdivision (a).

On August 11, 2025, defense counsel submitted a declaration stating the parties met and conferred earlier that day by telephone for over 40 minutes (Cullinane-Smith Decl., ¶ 2), thereby satisfying the meet and confer requirement.

On August 19, 2025, plaintiff submitted two separate filings: (1) Plaintiff's Opposition to Defendant Jordan Morgenstern's "Meet and Confer" Declaration of Lara Cullinane-Smith; Request for Acceptance of Late Filing; Request for Sanctions; and (2) Plaintiff's Combined Opposition to Defendant Morgenstern's Declaration Regarding Meet and Confer; Request for Acceptance of Late Filing; and Motion for Sanctions (CCP §§ 128.5, 128.7, 177.5; CRC 3.1348(A)). However, neither of these filings are authorized, and the court does not consider them in evaluating the instant demurrer.

At the outset, the court needs to address the status of the pleadings because there is some confusion as to which complaint the demurrer is directed. Plaintiff filed his original complaint on April 21, 2025. On April 30, 2025, plaintiff filed his first amended complaint ("FAC"). A plaintiff can amend his complaint once without leave of court before defendant's answer, demurrer, or motion to strike is filed. (Code Civ. Proc., § 472; see *Woo v. Superior Court* (1999) 75 Cal.App.4th 169, 175.)

On May 7, 2025, plaintiff filed his second amended complaint ("SAC"). However, this appears to be an unauthorized pleading, as plaintiff did not request, and the court did not grant, leave to file a SAC. The court, on its own motion, strikes the SAC in its entirety. (Code Civ. Proc., § 436, subd. (b).)

On May 28, 2025, defendant filed his demurrer to "plaintiff's complaint." However, defendant makes no mention of the amended complaint. At the time defendant filed his demurrer, the operative complaint was plaintiff's FAC. Therefore, the court deems defendant's demurrer as being directed to the FAC. With this clarification, the court continues the matter one more time to September 19, 2025.

Plaintiff shall not file any additional amended pleadings without leave of court.

TENTATIVE RULING # 4: THE COURT, ON ITS MOTION, STRIKES THE SECOND AMENDED COMPLAINT IN ITS ENTIRETY. (CODE CIV. PROC., § 436, SUBD. (b).) THE COURT DEEMS DEFENDANT JORDAN MORGENSTERN'S DEMURRER TO BE DIRECTED TO PLAINTIFF'S FIRST AMENDED COMPLAINT. THE MATTER IS CONTINUED TO 1:30 P.M., FRIDAY, SEPTEMBER 19, 2025, IN DEPARTMENT FOUR. PLAINTIFF SHALL NOT FILE ANY ADDITIONAL AMENDED PLEADINGS WITHOUT LEAVE OF COURT.

5. MATTER OF SHYKILO, 25CV1545

OSC Re: Name Change

TENTATIVE RULING # 5: PETITION IS GRANTED.

6. MATTER OF ASHBAUGH, 25CV1664

OSC Re: Name Changes

TENTATIVE RULING # 6: PETITION IS GRANTED.

7. JACKSON v. PG&E CORP., ET AL., 24CV2285

(A) PG&E Defendants' Motion to Contest Good Faith Settlement

(B) Defendant Clear Path's Motion to Contest Good Faith Settlement

On June 2, 2025, defendant Mountain F. Enterprises, Inc. ("MFE") filed a notice that it reached a settlement with plaintiff Nancy Jackson and filed an application for a determination of the good faith of the settlement pursuant to Code of Civil Procedure section 877.6. In support of its application, MFE submitted declarations from Kelly Haas (filed in the same document as the application on June 2, 2025), Erik Bunge (filed June 25, 2025), and John Sayre (filed August 12, 2025).

On June 26, 2025, defendants Pacific Gas and Electric Company and PG&E Corporation (collectively, the "PG&E Defendants") filed a timely motion contesting the good faith of the settlement, along with a supporting declaration from Peter Messrobian.[3] Alternatively, the PG&E Defendants request a 90-day continuance on the grounds that (1) MFE's application fails to provide a basis for the proposed settlement, and (2) the defendants in this case have not had sufficient time to conduct the discovery necessary to determine the nature and extent of MFE's involvement in the removal of trees and/or logs at issue in this litigation. On August 11, 2025, MFE filed its opposition. On August 15, 2025, the PG&E Defendants filed their reply, along with another supporting declaration from Peter Messrobian.

On June 27, 2025, defendant/cross-complainant Clear Path Utility Solutions, LLC ("Clear Path") filed a separate, timely motion contesting the good faith of the settlement, along with a declaration from Peter Geckeler. For the same reasons as the PG&E Defendants, Clear Path makes the alternative request of a 90-day continuance. On

[3] The PG&E Defendants filed an original notice of motion, as well as an amended notice of motion on June 26, 2025. The amended notice of motion does not appear to contain any substantive changes; the amended notice of motion includes a proof of service.

July 1, 2025, Clear Path filed an amended notice of motion.[4] On August 11, 2025, MFE filed its opposition. On August 15, 2025, Clear Path filed its reply, along with another supporting declaration from Peter Geckeler.

1. Legal Principles

The procedure for a good faith settlement determination is set forth in Code of Civil Procedure section 877.6, subdivision (a)(2). In an action in which it is alleged that two or more parties are joint tortfeasors or co-obligors on a contract debt, "a settling party may give notice of settlement to all parties and to the court, together with an application for determination of good faith settlement and a proposed order." (Code Civ. Proc., § 877.6, subd. (a)(2).) "The application shall indicate the settling parties, and the basis, terms, and amount of settlement." (*Ibid.*) After such an application is made, "a nonsettling party may file a notice of motion to contest the good faith of the settlement." (*Ibid.*)

"The party asserting the lack of good faith shall have the burden of proof on that issue." (Code Civ. Proc., § 877.6, subd. (d).) Specifically, "[o]nce there is a showing made by the settlor of the settlement, the burden of proof on the issue of good faith shifts to the non-settlor who asserts that the settlement was not made in good faith. [Citation.] if contested, declarations by the non-settlor should be filed which in many cases could require the moving party to file responsive counterdeclarations to negate the lack of good faith asserted by the non-settling contesting party." (*City of Grand Terrace v. Superior Court* (1987) 192 Cal.App.3d 1251, 1261–1262.) "[T]he trial court's consideration of the settlement agreement and its relationship to the entire litigation in a contested setting must proceed upon a sufficient evidentiary basis to enable the court to consider and evaluate the various aspects of the settlement." (*Id.* at p. 1263.)

[4] Compared to its original notice of motion, Clear Path's amended notice of motion does not appear to contain any substantive changes; the amended notice of motion includes a modified caption and proof of service.

A good faith determination bars "any other joint tortfeasor or co-obligor from any further claims against the settling tortfeasor or co-obligor for equitable comparative contribution, or partial comparative indemnity, based on comparative negligence or comparative fault." (Code Civ. Proc., § 877, subd. (a).)" (*Cahill v. San Diego Gas & Electric Co.* (2011) 194 Cal.App.4th 939, 959.)

In *Tech-Bilt, Inc. v. Woodward-Clyde & Associates* (1985) 38 Cal.3d 488 (*Tech-Bilt*), the California Supreme Court explained that in making a good faith settlement determination, a trial court should "inquire, among other things, whether the amount of the settlement is within the reasonable range of the settling tortfeasor's proportional share of comparative liability for the plaintiff's injuries." (*Id.* at p. 499.) Tech-Bilt explained, "the intent and policies underlying section 877.6 require that a number of factors be taken into account" in making this inquiry, "including a rough approximation of plaintiffs' total recovery and the settlor's proportionate liability, the amount paid in settlement, the allocation of settlement proceeds among plaintiffs, and a recognition that a settlor should pay less in settlement than he would if he were found liable after a trial. Other relevant considerations include the financial conditions and insurance policy limits of settling defendants, as well as the existence of collusion, fraud, or tortious conduct aimed to injure the interests of nonsettling defendants. [Citation.] Finally, practical considerations obviously require that the evaluation be made on the basis of information available at the time of settlement. '[A] defendant's settlement figure must not be grossly disproportionate to what a reasonable person, at the time of settlement, would estimate the settling defendant's liability to be.' " (*Tech-Bilt*, at p. 499.) "When evaluating whether the parties reached a settlement in good faith, a trial court must examine not only the settling tortfeasor's potential liability to the plaintiff, but also the settling tortfeasor's liability to all nonsettling tortfeasors." (*PacifiCare of California v. Bright Medical Associates, Inc.* (2011) 198 Cal.App.4th 1451, 1465 (*PacifiCare*).) "[A] court not only looks at the alleged tortfeasor's potential liability to the plaintiff, but it

must also consider the culpability of the tortfeasor vis-à-vis other parties alleged to be responsible for the same injury." (*TSI Seismic Tenant Space, Inc. v. Superior Court* (2007) 149 Cal.App.4th 159, 166.)

A party contesting the good faith of a settlement must "demonstrate … that the settlement is so far 'out of the ballpark' in relation to" the factors identified by our Supreme Court "as to be inconsistent with the equitable objectives of the statute." (*Tech-Bilt*, *supra*, 38 Cal.3d at pp. 499–500.) " '[A] "good faith" settlement does not call for perfect or even nearly perfect apportionment of liability. In order to encourage settlement, it is quite proper for a settling defendant to pay less than his proportionate share of the anticipated damages. What is required is simply that the settlement no be grossly disproportionate to the settlor's fair share.' " (*PacifiCare*, *supra*, 198 Cal.App.4th at p. 1465.) "[E]ach case must be decided based on its particular circumstances and the trial court may consider its own judicial experience …." (*Cahill*, *supra*, 194 Cal.App.4th at p. 968.)

"In the context of section 877.6 '[t]he trial court is given broad discretion in deciding whether a settlement is in "good faith" for purposes of section 877.6, and its decision may be reversed only upon a showing of abuse of discretion.' " (*Cahill*, *supra*, 194 Cal.App.4th at p. 957.) "[T]here is no abuse of discretion requiring reversal if there exists a reasonable or fairly debatable justification under the law for the trial court's decision or, alternatively stated, if that decision falls within the permissible range of options set by the applicable legal criteria." (*Ibid.*) " 'On appellate review, a trial court's determination of good faith of a settlement involving the resolution of factual issues will be upheld if supported by substantial evidence.' " (*Dole Food Co., Inc. v. Superior Court* (2015) 242 Cal.App.4th 894, 909.) "If … there is no substantial evidence to support a critical assumption as to the nature and extent of a settling defendant's liability, then a determination of good faith based upon such assumption is an abuse of discretion." (*Toyota Motor Sales U.S.A., Inc. v. Superior Court* (1990) 220 Cal.App.3d 864, 871.)

2. Discussion

In its application for good faith settlement, MFE states: "Plaintiff's Complaint only pleads two Incidents against Settling Defendant involving damage to two milled logs and a Christmas tree. Said settlement in the amount of $12,000.00 settles Plaintiff's respective claims for the damage to the two milled logs and the removal of the Christmas tree. Thus, the amount of the settlement is fair and reasonable consideration for the compromise, release, and waiver of Plaintiff's claims against the Settling Defendant as Settling Defendant's alleged involvement only concerns two milled logs and one Christmas tree out of the total 120 trees and 30 milled logs allegedly damaged." (App. at 8:18–24.)

Clear Path and the PG&E Defendants raise similar arguments in their respective motions. First, they argue that the court should disregard Bunge's and Sayre's declarations submitted by MFE in support of its application for good faith settlement because they were filed at least 23 days after the application; Bunge's declaration (filed June 25, 2025) was filed just two days before the motion to contest was due; and Sayre's declaration (filed August 12, 2025) was not filed until well after the motion to contest was due. Alternatively, Clear Path and the PG&E Defendants object to Bunge's declaration on the grounds that it contains hearsay, lacks foundation, and is speculative, as it is based solely on a review of MFE invoices.

Moreover, Clear Path and the PG&E Defendants argue that the only evidence submitted contemporaneously with MFE's application for good faith settlement was from their attorney, Kelly Haas, who was not a percipient witness to the underlying allegations and has not provided proper foundation for the statements in her declaration.

Next, Clear Path and the PG&E Defendants argue that MFE's application for good faith settlement is premature because MFE's role in the removal of trees and/or logs at issue in this case is uncertain at this time, and discovery has just begun (the complaint

was filed in October 2024; in April 2025, the court granted a motion to strike portions of the complaint with leave to amend; PG&E propounded discovery on plaintiff on April 17, 2025, and Clear Path propounded discovery on MFE on June 6, 2025).

In opposing a motion seeking judicial determination of the good faith of a settlement under Code of Civil Procedure section 877.6, the objecting non-settlor may appropriately move for a continuance of the hearing, if necessary, in order to engage in discovery to support its statutory burden of proof as to the factors indicating a lack of good faith. (*City of Grand Terrace v. Superior Court* (1987) 192 Cal.App.3d 1251, 1265.)

The court finds that Clear Path's and the PG&E Defendants' requests for a continuance to engage in discovery is appropriate here and grants the requests.

TENTATIVE RULING # 7: THE HEARING FOR EACH MOTION IS CONTINUED TO 1:30 P.M., FRIDAY, DECEMBER 12, 2025, IN DEPARTMENT FOUR, TO ALLOW THE PARTIES TO ENGAGE IN DISCOVERY REGARDING THE *TECH-BILT* FACTORS. THE MOVING PARTIES SHALL SUBMIT A SUPPLEMENTAL MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF THEIR RESPECTIVE MOTIONS CONTESTING GOOD FAITH ON OR BEFORE NOVEMBER 18, 2025. SUPPLEMENTAL OPPOSITION AND REPLY PAPERS SHALL BE FILED IN ACCORDANCE WITH THE REGULAR BRIEFING SCHEDULE UNDER CODE OF CIVIL PROCEDURE SECTION 1005, SUBDIVISION (b).

8. WELLS FARGO BANK, N.A. v. GREENER, 24CV2774

Motion to Deem Matters Admitted

Before the court is plaintiff's motion to deem matters admitted. Defendant filed no opposition.

A party served with requests for admission must serve a response within 30 days. (Code Civ. Proc., § 2033.250.) Failure to serve a response entitles the requesting party, on motion, to obtain an order that the genuineness of all documents and the truth of all matters specified in the requests for admission be deemed admitted. (Code Civ. Proc., § 2033.280, subd. (b).) When such a motion is made, the court must grant the motion and deem the requests admitted unless it finds that prior to the hearing, the party to whom the requests for admission were directed has served a proposed response that is in substantial compliance with the provisions governing responses. (Code Civ. Proc., § 2033.280, subd. (c); *St. Mary v. Superior Court* (2014) 223, Cal.App.4th 762, 776, 778; see also *Demyer v. Costa Mesa Mobile Home Estates* (1995) 36 Cal.App.4th 393, 395–396 ["two strikes and you're out"].)

In this case, plaintiff's counsel declares that Requests for Admission (Set One) were served upon defendant on February 5, 2025. (Early Decl., ¶ 1 & Ex. A.) Assuming the discovery was propounded by mail,[5] defendant's response was due March 12, 2025 (30 calendar days plus five calendar days for mail service). (Early Decl., ¶ 2.) To date, defendant has served no response. (Early Decl., ¶ 2.)

The motion is granted.

TENTATIVE RULING # 8: THE MOTION TO DEEM MATTERS ADMITTED IS GRANTED. NO HEARING ON THIS MATTER WILL BE HELD (*LEWIS v. SUPERIOR COURT* (1999) 19

[5] Plaintiff's counsel's declaration does not expressly identify the manner of service. However, the declaration states that defendant's response was due "35 days" after the discovery was propounded. The court interprets this to mean that plaintiff propounded the discovery by mail, as such manner of service extends the 30-day deadline to respond by five calendar days. (Code Civ. Proc., § 1013, subd. (a).)

CAL.4TH 1232, 1247), UNLESS A NOTICE OF INTENT TO APPEAR AND REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 573-3042 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. NOTICE TO ALL PARTIES OF AN INTENT TO APPEAR MUST BE MADE BY TELEPHONE OR IN PERSON. PROOF OF SERVICE OF SAID NOTICE MUST BE FILED PRIOR TO OR AT THE HEARING.