

April 25, 2025
Dept. 9
Tentative Rulings

1.	22CV1334	BLY-CHESTER v. EL DORADO COUNTY
Motion for Attorney's Fees		

This matter has been continued multiple times given the pending appeal of court's order regarding the Anti-SLAPP motion which forms the basis for the attorney's fees motion. While the Third District issued its decision upholding the order, upon review of the file a petition is pending to the California Supreme Court for further review. As such, the matter is continued to October 31, 2025 at 8:30 a.m. in Department 9.

TENTATIVE RULING #1:

HEARING CONTINUED TO FRIDAY, OCTOBER 31, 2025, AT 8:30 AM IN DEPARTMENT NINE.

IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM, PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.

2.	24CV0676	COCHRAN v. MARSHALL MEDICAL
Motion for Stay and Protective Order		

Defendant Marshall Medical Center seeks a protective order with respect to discovery requests related to the Complaint and seeks a stay of all discovery until the Court determines the merits of Defendant's pending Motion for Summary Judgment, which is currently set for hearing on May 9, 2025. A similar motion was heard in Cochran v. Marshall Medical (24CV0105). It is unclear whether the current Motion even needs to be addressed or if the issue has been resolved.

There is no opposition by Plaintiff.

TENTATIVE RULING #2:

MOTION GRANTED.

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3.	24CV1029	CITIBANK v. SILVA
Judgment on the Pleadings		

Request for Judicial Notice

Plaintiff has filed a request for the Court to take judicial notice of the February 21, 2025, Order in this case. Judicial notice is a mechanism which allows the court to take into consideration matters which are presumed to be indisputably true. California Evidence Code Sections 451, 452, and 453 collectively govern the circumstances in which judicial notice of a matter may be taken. While Section 451 provides a comprehensive list of matters that must be judicially noticed, Section 452 sets forth matters which *may* be judicially noticed, including “records of (1) any court in this state.” Evidence Code §452(d). A trial court is required to take judicial notice of any matter listed in section 452 if a party requests it and gives the other party sufficient notice to prepare to meet the request. Evidence Code § 453.

Plaintiff’s request for judicial notice is granted.

Motion

On February 21, 2025, this Court issued an Order deeming certain facts admitted based on Defendant’s failure to respond to Requests for Admissions propounded by Plaintiff. Based on those admitted facts, Plaintiff moves for judgment on the pleadings pursuant to Code of Civil Procedure §438. Plaintiff’s counsel filed a declaration confirming his meet and confer efforts with Defendant prior to filing the motion, as required by Code of Civil Procedure §439.

All elements of the cause of action for common counts having been conclusively established by the Court’s Order, there is no possibility that granting leave to amend would alter the result.

Proof of service of notice of the hearings was filed on March 14, 2025. There is no opposition.

TENTATIVE RULING #3:

MOTION FOR JUDGMENT ON THE PLEADINGS IS GRANTED.

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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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4.	24CV1538	KORNAHRENS v. MILLAR
Motion to be Relieved		

Counsel for the Plaintiffs has filed a motion to be relieved as counsel pursuant to Code of Civil Procedure § 284(2) and California Rules of Court, Rule 3.1362. A declaration on Judicial Council Form MC-052 accompanies the motion, as required by California Rules of Court, Rule 3.1362, stating that there has been an irreconcilable breakdown in the attorney-client relationship.

Code of Civil Procedure § 284(2) and California Rules of Court, Rule 3.1362 allow an attorney to withdraw after notice to the client. Proof of service of the motion on the Defendants at their last known address and on counsel for Plaintiff was filed on March 27, 2025.

There is a Case Management Conference scheduled on June 24, 2025 which is not listed in the proposed Order. The court finds good cause to grant the motion to be relieved and orders counsel to submit a revised proposed order which includes the upcoming hearing date.

TENTATIVE RULING #4:

MOTION TO BE RELIEVED AS COUNSEL IS GRANTED EFFECTIVE UPON SERVICE OF THE SIGNED ORDER ON THE CLIENT. COUNSEL IS ORDERED TO SUBMIT A REVISED PROPOSED ORDER WHICH INCLUDES THE UPCOMING CASE MANAGEMENT CONFERENCE DATE.

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5.	25CV0721	MATTER OF J.G. WENTWORTH
Transfer of Payment Rights		

Prior to approving a petition for the transfer of payment rights, this court is required to make a number of express written findings pursuant to Cal. Insurance Code § 10139.5, including the following:

1. That the transfer is in the best interests of the Payee, taking into account the welfare and support of Payee's dependents.
2. That the Payee has been advised in writing by the Petitioner to seek independent professional advice and has either received that advice or knowingly waived in writing the opportunity to receive that advice. This finding is supported by Exhibits B and E to the Petition.
3. That the transferee has complied with the notification requirements and does not contravene any applicable statute or the order of any court or government authority. The required disclosure statement was provided at least ten days prior to the execution of the transfer agreement, as required by Cal. Ins. Code § 10136. See Exhibits A and B.
4. That the transfer does not contravene any applicable statute or the order of any court or government authority. The Payee states that she has no court-ordered child support obligations or spousal support obligations. Declaration of Sonia Huston.

In addition to the express written findings required by the applicable statutes, Cal. Ins. Code § 10139.5(b) requires the court to determine whether, based on the totality of the circumstances and considering the payee's age, mental capacity, legal knowledge, and apparent maturity level, the proposed transfer is fair and reasonable, and in the payee's best interests. The court may deny or defer ruling on the petition if the court believes that the payee does not fully understand the proposed transaction, and/or that the payee should obtain independent legal or financial advice regarding the transaction. Based on the payee's Declaration, the Court finds that the proposed transfer is fair and reasonable, and in the payee's best interests.

TENTATIVE RULING #5:

PETITION GRANTED.

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6.	25CV0394	MATTER OF BOARDWALK COMMUNITY ASSOC.
Petition to Facilitate Sale for Foreclosed Property		

TENTATIVE RULING #6:

APPEARANCES REQUIRED ON FRIDAY, APRIL 25, 2025, AT 8:30 AM IN DEPARTMENT NINE.

IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM, PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.

7.	23CV0039	FRITZ v. PERDICHIZZI
Motion for Trial Continuance		

Trial in this case is currently set for August 19, 2025, and involves alleged bodily injury suffered by Plaintiff. The Complaint was filed on January 4, 2023. Plaintiff is requesting that trial and all related dates be continued to 2026 based on Plaintiff's upcoming surgery, which Plaintiff argues could have an effect on the case.

California Rules of Court, rule 3.1332(c) sets forth circumstances that may indicate good cause for a continuance of trial, which includes a significant, unanticipated change in the status of the case as a result of which the case is not ready for trial.

Under California Rules of Court, rule 3.1332(d) the Court is to consider several factors, including the proximity of the trial date, whether there were any previous continuances or extensions, the prejudice that the parties will suffer as a result of the continuance, whether the interests of justice are best served by a continuance, by trial, or by imposing conditions on the continuance, and any other fact or circumstance relevant to the fair determination of the motion or application.

Plaintiff alleges that she underwent an MRI in January 2025, and it was determined that surgery and a course of post-operative treatment will be required, before she is reassessed again. Plaintiff states there was no delay in bringing this motion and that she will be prejudiced if the trial date is not continued.

There is no opposition.

TENTATIVE RULING #7:

MOTION IS GRANTED. APPEARANCES REQUIRED ON FRIDAY, APRIL 25, 2025, AT 8:30 AM IN DEPARTMENT NINE TO SELECT NEW DATES.

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.	PC20200191	GREEN v. SNIPES CONSTRUCTION
Good Faith Settlement		

This action arises out of the design and construction of a single-family located in El Dorado Hills, CA (the “Property”). Plaintiffs Scott Green and Emily Green (hereafter collectively “Plaintiffs”) allege they entered into a contract with Snipes Construction, Inc. (hereafter “SCI”) for the construction of the Property. SCI hired moving party Richard Cotham Painting (hereafter “RCP”) to perform interior painting and limited exterior painting at the Property. The only pending pleading and cause of action against RCP at this time is Plaintiffs’ Complaint and cause of action for negligence. Plaintiffs and RCP have reached a settlement in the amount of \$5,000 contingent upon a good faith settlement determination.

The primary terms and conditions of the settlement reached by Plaintiffs and RCP are as follows: (1) RCP, through its insurer, will pay Plaintiffs the total sum of \$5,000; (2) Plaintiffs and RCP each agree to bear their own attorney fees and costs of suit herein; (3) Plaintiffs will dismiss, with prejudice, their Complaint as against RCP; (4) the settlement is contingent upon a court order determining the settlement is in good faith pursuant to Code of Civil Procedure section 877.6 thereby barring further and future claims against RCP for equitable contribution and indemnity; and (5) Plaintiffs and RCP will execute a settlement agreement which includes Plaintiffs release of all claims, past, present, or future, against RCP, whether now known or unknown, including a full waiver of Civil Code section 1542. (Declaration of Terri L. Crawford at ¶ 3. The Declaration is hereafter referred to as “Crawford Dec.”). The only pleading affected by RCP’s settlement is the Complaint which will be dismissed, with prejudice, as to RCP if this motion for good faith settlement determination is granted.

The intent and policies underlying Code of Civil Procedure section 877.6 require that a number of factors be taken into account by the court in determining if a settlement is in good faith. (Tech-Bilt, Inc. v. Woodward-Clyde & Associates (1985) 38 Cal.3d 488, 499.) These factors include: (1) A rough approximation of the plaintiff’s total recovery and the settling defendant’s proportionate liability; (2) the amount paid in settlement; (3) a recognition that a settling defendant should pay less in settlement than if found liable at trial; (4) the allocation of the settlement proceeds among plaintiffs; (5) the settling defendant’s financial condition and insurance policy limits; and (6) evidence of any collusion, fraud, or tortious conduct between the settling defendant and the plaintiff aimed at making the non-settling parties pay more than their fair share. (Id. at pp. 499-500.)

Based on the facts presented in the Motion, and the lack of opposition to the Motion, the Court finds this is a good faith settlement.

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TENTATIVE RULING #8:

MOTION IS GRANTED.

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9.	24CV2369	WELLS FARGO BANK v. PARAJON
Motion to Deem Matters Admitted		

This matter is a collections case. Plaintiff propounded discovery consisting of Request for Admissions on December 17, 2024, making the responses due on January 21, 2025. Plaintiff did not receive any responses from Defendant. Within 30 days after service of requests for admissions, the responses are due. California Code of Civil Procedure ("CCP") §2033.250. Plaintiff sent a meet and confer letter on January 22, 2025, informing Defendant that the responses were past due and providing an extension for responses. No responses have been provided.

CCP §2033.280 provides that if a party to whom requests for admissions have been directed fails to serve a timely response, that party thereby waives any objection to the requests, including one based on privilege or on the protection for work product under § 2018.010 et seq. It further provides that the requesting party may move for an order that the truth of any facts specified in the requests be deemed admitted. The court "shall" make this order unless it finds that the party to whom the requests for admission have been directed has served, before the hearing on the motion, a proposed response to the requests for admissions that is in substantial compliance with paragraph (1) of subdivision (f).

CCP §2033.280 further requires that the Court impose monetary sanctions on the party whose failure to serve a timely response to requests for admission necessitated this motion.

TENTATIVE RULING #9:

- 1. MOTION IS GRANTED.**
- 2. SANCTIONS IN THE AMOUNT OF \$50.00 AWARDED AGAINST DEFEDANT.**

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10.	24CV0105	COCHRAN v. MARSHALL MEDICAL
Motion for Summary Judgment, Motion for Leave to Amend		

On September 16, 2024, Defendant filed and served a Notice of Motion for Summary Judgment and supporting documents thereto. Plaintiffs did not file any opposition. However, Plaintiffs later filed a Motion for Leave to File First Amended Complaint on November 14, 2024.

Request for Judicial Notice

Defendant did not file a request for judicial notice.

Motion for Summary Judgment

A motion for summary judgment or adjudication shall be granted if there is no triable issue as to any material fact and the papers submitted show that the moving party is entitled to judgment as a matter of law as to one or more causes of action or claims for damages. Cal. Civ. Pro. § 437c(f)(1). A defendant moving for summary judgment need only show that one or more elements of the cause of action cannot be established. *Aguilar v. Atlantic Richfield Co.* (2001) 25 Cal.4th 826, 849. This can be done in one of two ways, either by affirmatively presenting evidence that would require a trier of fact *not* to find any underlying material fact more likely than not; or by simply pointing out “that the plaintiff does not possess and cannot reasonably obtain, evidence that *would* allow such a trier of fact to find any underlying material fact more likely than not.” *Id.* at 845; *Brantly v. Pisaro* (1996) 42 Cal. App. 4th 1591, 1601.

The moving party bears the initial burden of making a prima facie case for summary judgment. *White v. Smule, Inc.* (2022) 75 Cal. App. 5th 346. In other words, the party moving for summary judgment or adjudication must show that it is entitled to judgment as a matter of law. *Doe v. Good Samaritan Hospital* (2018) 23 Cal. App. 5th 653, 661. Where the defendant makes the required showing, the burden shifts to plaintiff to make a prima facie showing that there exists a triable issue of material fact. *Zoran Corp. v. Chen* (2010) 185 Cal. App. 4th 799, 805. “There is a triable issue of material fact if, and only if, the evidence would allow a reasonable trier of fact to find the underlying fact in favor of the party opposing the motion in accordance with the applicable standard of proof.” *Aguilar, Supra* 25 Cal. 4th at 850.

Here, the question presented is whether Plaintiff Cindy Cochran can establish the elements of any of the causes of action contained in her Class Action Complaint (“Complaint”) and whether any of her causes of action against Defendant have any merit.

As alleged in the Complaint, Plaintiff is a former employee of Defendant who was employed from April 2013 to May 2023. On August 30, 2023, Abramson Labor Group, as counsel for Plaintiff, sent a pre-litigation demand letter to Defendant. [UMF 1] Counsel for Plaintiff and Defendant negotiated a settlement which was reduced to writing as the Settlement Agreement. [UMF 2] Defendant executed the Settlement Agreement with Plaintiff on December 14, 2023.

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[UMF 3] Plaintiff executed the Settlement Agreement via Dropbox Sign on December 23, 2023. The Dropbox Sign audit trail for the Settlement Agreement shows that it was sent by clientsupport@abramsonlabor.com to Plaintiff at her email address on December 20, 2023, and viewed by Cindy Cochran (cochrancindyrella333@gmail.com) and signed by Cindy Cochran (cochrancindyrella333@gmail.com) on December 23, 2023. [UMF 4]

Plaintiff's counsel sent the Settlement Agreement executed by Plaintiff and counsel on December 26, 2023 via email to Defendant's counsel, with Plaintiff's and Abramson Labor Groups' IRS W9 forms. [UMF 5]

The executed Settlement Agreement at paragraph 2d. provides for the release of Defendant, and covers: ...any and all statutory, common law, constitutional, and other claims, including but not limited to: claims for unpaid wages, penalties, commissions, bonuses or other compensation;...claims under the Labor Code... [UMF 6]

The Settlement Agreement at paragraph 3. provides for a Civil Code Section 1542 waiver of all claims against Defendant. [UMF 7]

The Settlement Agreement contains a covenant not to sue: At no time, will Cochran pursue, or cause, or knowingly permit the prosecution of, in any state, federal, or foreign court, or before any local, state, federal, or foreign administrative agency, or any other type of tribunal, any complaint, charge, claim, or action of any kind, nature, and character whatsoever, known or unknown, which she may now have, have ever had, or may in the future have against the Released Parties, that is based in whole or in part on any claims released by this Agreement. [UMF 8]

The Settlement Agreement at paragraph 5 provides that the Settlement Agreement may be pled as a full and complete defense to any action, suit or any other proceeding by Plaintiff against Defendant. This Agreement may be pled as a full and complete defense to, and may be used as the basis for an injunction against, any action, suit, or any other proceeding that may be instituted or prosecuted by any Party in breach of this Agreement. However, this paragraph does not bar any cause of action or claim based expressly, specifically, or exclusively upon an alleged breach of this Agreement. [UMF 9]

On December 28, 2023, Defendant's counsel sent a letter with the settlement check, made payable to the Abramson, Levin & Gindi, LLP Client Trust, to Plaintiff's counsel Eugene Ahtirski at Abramson Labor Group via FedEx-Overnight. [UMF 10]

Based on the language of the Settlement Agreement, and the fulfillment of its terms by Defendant, all of Plaintiff's causes of action are completely barred. The Motion for Summary Judgment is granted as to Plaintiff Cindy Cochran.

Plaintiff filed a Motion for Leave to File First Amended Complaint, seeking to add additional class representatives. Plaintiff argues that allowing amendment is in the furtherance of justice, the proposed amendments are necessary, she did not delay in seeking the amendment, and Defendant cannot claim any prejudice.

The Court may grant leave to amend the pleadings at any stage of an action. California Code of Civil Procedure section 473, subdivision (a)(1) states, in relevant part: The court may, in furtherance of justice, and on any terms as may be proper, . . . may likewise, in its discretion, after notice to the adverse party, allow, upon any terms as may be just, an amendment to any pleading or proceeding in other particulars...

A named plaintiff's lack of standing at the beginning of an action is not necessarily fatal to continuation of the action. Although a complaint filed by a party who lacks standing is subject to demurrer, the rationale for the demurrer would be that there is a defect in the parties, since the party named as plaintiff is not the real party in interest. Amendments to complaints under Code Civ. Proc., § 473, subd. (a), are liberally allowed to substitute in plaintiffs with standing for original plaintiffs without standing. (*CashCall, Inc. v. Superior Court* (2008) 159 Cal.App.4th 273, 274)

A suit is sometimes brought by a plaintiff without the right or authority to sue, and the amendment seeks to substitute the real party in interest. Although the original complaint does not state a cause of action in the plaintiff, the amended complaint by the right party restates the identical cause of action, and the amendment is freely allowed. Courts have permitted plaintiffs who have been determined to lack standing, or who have lost standing after the complaint was filed, to substitute as plaintiffs the true real parties in interest." (*CashCall, supra*, 159 Cal.App.4th 273, 274)

While Defendant argues one of the proposed additional class representatives is barred by a prior class action settlement, Defendant does not articulate any prejudice it will suffer if the amendment is allowed.

TENTATIVE RULING #10:

- 1. MOTION FOR SUMMARY JUDGMENT IS GRANTED.**
- 2. MOTION FOR LEAVE TO FILE FIRST AMENDED COMPLAINT 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).

NOTICE TO ALL PARTIES OF A REQUEST FOR ORAL ARGUMENT AND THE GROUNDS UPON WHICH ARGUMENT IS BEING REQUESTED MUST BE MADE BY TELEPHONE OR IN PERSON BY

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4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; EL DORADO COUNTY LOCAL RULE 8.05.07. PROOF OF SERVICE OF SAID NOTICE MUST BE FILED PRIOR TO OR AT THE HEARING.

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.

11.	24CV0204	WELLS FARGO BANK v. OBRIEN
Motion for Summary Judgment		

Plaintiff filed its Complaint against Defendant for breach of written contract, breach of contract (implied in fact), money lent, money paid, open book account, and account stated. Plaintiff served discovery including Request for Admissions, Defendant did not respond, and on September 4, 2024, the Court ordered the Requests for Admissions propounded on Defendant be deemed admitted. Therefore, Defendant admitted that she was issued the credit card in question, used the credit card for a period of several years, and failed to remit further payment since March 28, 2023, leaving an outstanding balance of \$13,760.31.

Code Civ. Proc. § 437c(p)(1) sets forth plaintiff or cross-complainant's burden in moving for summary judgment:

A plaintiff or cross-complainant has met his or her burden of showing that there is no defense to a cause of action if that party has proved each element of the cause of action entitling the party to judgment on that cause of action. Once the plaintiff or cross-complainant has met that burden, the burden shifts to the defendant or cross-defendant to show that a triable issue of one or more material facts exists as to that cause of action or a defense thereto. The defendant or cross-defendant may not rely upon the mere allegations or denials of its pleadings to show that a triable issue of material fact exists but, instead, shall set forth the specific facts showing that a triable issue of material fact exists as to that cause of action or a defense thereto.

Plaintiff has set forth undisputed facts to establish all causes of action brought in the Complaint. The burden therefore shifts to Defendant, who has not filed any Opposition.

TENTATIVE RULING #11:

MOTION FOR SUMMARY JUDGMENT 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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April 25, 2025
Dept. 9
Tentative Rulings

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.