

**Judge Benson – Law & Motion – Wednesday, October 23, 2024 @ 9:00 AM  
TENTATIVE RULINGS**

**1-4. 20CV00875 Thao, Ia v. Marshall, PA-C Robert, et al.**

*EVENT: (1) Petition for Approval of Minor's Compromise (Dao-Shang Isaac Yang)*

*(2) Petition for Approval of Minor's Compromise (Chantu Grace Yang)*

*(3) Petition for Approval of Minor's Compromise (Mynoua Amelia Yang)*

*(4) Petition for Approval of Minor's Compromise (Tzang-Sing Edison Yang)*

All (4) minor's compromise petitions are granted. The Court will sign the proposed orders.

**5. 23CV01748 K&M Butte Developers, LLC v. Sewerage Commission – Oroville Region**

*EVENT: Respondent and Defendant Sewerage Commission – Oroville Region's Motion for Leave to File First Amended Answer*

Respondent and Defendant Sewerage Commission – Oroville Region's Motion for Leave to File First Amended Answer is GRANTED. The Court will sign the proposed order.

**6. 24CV02701 In re: Foor, Crystal Elizabeth**

*EVENT: Change of Name (adult)*

There is no proof of publication on file. Upon the filing of the proof of publication, the Court will sign the decree provided.

7. **19CV01754 Trimble, Crystal v. Hankins, Kathy et al.**

*EVENT: Motion to Enforce Settlement Agreement (Continued from 8/14/24, 8/28/24, and 10/2/24)*

Motion to Enforce Settlement Agreement is GRANTED in PART.

Preliminarily the Court finds the agreement was entered into and signed by all parties. As to Defendant Live Strong, Inc., attorney Jonathan Lusher signed the agreement on its behalf. Pursuant to CCP 664.6(b)(2), an attorney may sign on behalf of a party. The Court has considered the remaining arguments by Defendant Hankins submitted in her opposition. The Court finds the arguments are without merit.

Plaintiff shall prepare a judgment for the unpaid balance of \$29,000. The judgment will include an order that Defendants hold Plaintiff harmless regarding the credit card ending in 2023. Further, attorney fees and costs are awarded to Plaintiff in the amount of \$1,310.00.

As to prejudgment interest, the request is denied on the grounds neither the original motion nor the amended motion requested prejudgment interest. It is well settled that it is improper to raise new arguments or present new evidence in the reply brief because, among other things, it deprives the opposing party of the opportunity to respond. (See, e.g., *Maleti v. Wickers* (2022) 82 Cal.App.5th 181, 227-228.)

Regarding Plaintiffs' request Defendant also be ordered to indemnify and defend plaintiff regarding the credit card, the request is denied. The power of the trial court under Code of Civil Procedure section 664.6 ... is extremely limited. ... The court is powerless to impose on the parties more restrictive or less restrictive or different terms than those contained in their settlement agreement. (*Machado v. Myers*, (2019) 39 Cal. App. 5th 779, 790)

The agreement says nothing about indemnity or duty to defend. It only mentions hold harmless. We have no authority under 664.6 to add new terms. Even if indemnify and defend are synonymous with hold harmless, or are necessarily included in the phrase hold harmless, the Court simply has no authority to include language not stated in the agreement.

As to the credit card amount, as the Court previously noted it has no authority to include a monetary award concerning the credit card debt based on the language of the agreement.

Plaintiff shall prepare an order and judgment consistent with this ruling within 2 weeks.

**8. 24CV01008 Fadale, Damon v. Smith, Kameron**

*EVENT: Motion to Vacate Ruling to Strike Amended Complaint Entered September 11, 2024*

Motion to Vacate Ruling to Strike Amended Complaint Entered September 11, 2024 is DENIED. Plaintiff has provided no evidence of a written stipulation permitting him to amend the complaint. Once an answer has been filed in a case, the Code of Civil Procedure requires a party to file a motion seeking leave to amend.

However, regarding a separate matter, on the Court's own motion, the Order Striking Plaintiff's First Amended Complaint is hereby modified striking the award of attorney fees. The Court's tentative ruling noted there was no legal authority supporting an award of attorney fees. It was the Court's intention to modify the order accordingly.

Defendant shall prepare and submit a form of order consistent with this ruling within 2 weeks.

**9. 24CV02665 In re: Carmack, Jenna Renee**

*EVENT: Change of Name (Adult)*

There is no proof of publication on file. Upon the filing of the proof of publication, the Court will sign the decree provided.

**10. 24CV03050 In re: Collins, Alisha**

*EVENT: Change of name (Minor)*

There is no proof of publication on file. Also, there is no proof of service on the non-consenting parent as required by CCP § 1277(a)(4). The Court will hear from Petitioner.

11. **24CV03486 Butte County Animal Control v. Coppedge, Crystal**

*EVENT: Petition to Determine if Dog is Potentially Dangerous*

The Court will conduct a hearing.