

Judge Benson – Law & Motion – Wednesday, January 15, 2025 @ 9:00 AM
TENTATIVE RULINGS

1. 20CV00558 Snider, Elizabeth v. FDM Community Services, Inc.

EVENT: Compliance Hearing (Continued from 12/11/24)

Pursuant to CCP § 384, the Order and Judgment dated April 24, 2024 is hereby amended to direct the Settlement Administrator to distribute the sum of \$16,112.33 representing unclaimed class member funds to the California State Controller's Unclaimed Property Division. Plaintiff shall prepare an order consistent with this ruling within 2 weeks.

2. 20CV02267 Alvarez, Jessica v. Abel, Jeff et al.

EVENT: Defendant Abel Fire Equipment's Motion to Compel Non Party Witness Shayla Love's Compliance With Deposition Subpoena (Continued from 12/4/24)

The Court will hear from counsel. At the previous hearing, the Court noted there was no proof of service indicating the non-party witness was served with the moving papers. If there are no appearances, the motion will be denied without prejudice.

3-4. 20CV02308 Nelson, Dianna v. Aguirre, Luis Jose et al.

EVENT: (1) Defendant Luis Aguirre's Motion for Order Compelling Plaintiff to Answer Form Interrogatories, Special Interrogatories, and to Respond to Request for Production of Documents

(2) Defendant Luis Aguirre's Motion for Order Deeming Truth of Facts

Both motions are GRANTED and are unopposed. Plaintiff is ordered to provide code complaint responses without objection to Form Interrogatories, Special Interrogatories, and Production of Documents within 10 after notice of this order. Regarding Request for

Admissions, the requests are deemed admitted. Plaintiff shall prepare and submit a form of order consistent with this ruling within 2 weeks.

5. 21CV00322 Wade, Clyde Lee et al. v. Wallace, Robert M et al.

EVENT: Motion to Enforce Settlement (CCP § 664.6) (Continued From 11/20/24)

Motion to Enforce Settlement pursuant to CCP § 664.6 is GRANTED in PART. Judgment may be entered under section 664.6 whether the parties are complying with the terms of the agreement or whether they are not. (*Viejo Bancorp, Inc. v. Wood*, (1989) 217 Cal. App. 3d 200, 209 fn. 4) Because all parties acknowledge a valid settlement agreement was entered into in conjunction with the settlement conference, the Court will enter a judgment pursuant to the terms of the June 26, 2024 minute order.

Plaintiff's proposed order seeks \$7,500 in order to remove encroaching trees and \$7,500 to install a French drain. The Court has no authority under the CCP § 664.6 procedure to grant this request. As Defendants correctly note, the Court only has the authority to enforce the terms of the settlement – it does not have authority under 664.6 to create new terms. Both the installation of the French drain and the Plaintiff's self-help proposal concerning the trees are not terms to the agreement.

This is not to say Plaintiff could not seek these legal remedies, rather Plaintiff cannot obtain these remedies through the 664.6 procedure.

Regarding the issue of water intrusion, the Court finds Plaintiff has failed to meet his burden in demonstrating the water came from Defendants' property. Although counsel made reference to a video in an email, no video was provided.

Plaintiff shall prepare an order consistent with this ruling and a judgment which is consistent with the June 26, 2024 minute order.

All attorney fee requests are denied.

6. **21CV00860 Discover Bank v. Snyder, Julie**

EVENT: Opposition to Claim of Exemption

The Court will conduct a hearing.

7. **23CV00827 Binion, Steven v. Pacific Gas & Electric Company**

EVENT: Defendant's Motion to have Requests for Admission, Set Two Admitted and Request for Sanctions

Defendant's Motion to have Requests for Admission, Set Two Admitted and Request for Sanctions is GRANTED. Sanctions are imposed in the amount of \$1,645.00 against Plaintiff payable within 20 days of notice of this order. The Court will sign the proposed order with these modifications.

On a separate matter, after further review the Court understands that the case is not completely disposed. The previous motion for judgment on the pleadings appears to have disposed of several but not all of the causes of action in the operative pleading. A Case Management Conference is hereby scheduled for February 26, 2025 at 9:00am. Defendant to give notice.

8. **24CV00317 Velocity Investments, LLC Sparrow, Tiffinie**

EVENT: Motion to be Relieved as Counsel (Defense Counsel)

Motion to be Relieved as Counsel (Defense Counsel) is denied without prejudice for failure to complete 3b of Judicial Council Form MC-052.

9. **24CV00757 Modern-Sundt, a Joint Venture v. Oroville Hospital**

EVENT: Oroville Hospital's Motion to Consolidate Cases

Oroville Hospital's Motion to Consolidate Cases is GRANTED. Oroville Hospital shall prepare and submit a form of order within 2 weeks.

10. **24CV02343 Pacific Parks Landscaping, Inc. v. Modern-Sundt et al.**

EVENT: Oroville Hospital's Motion to Consolidate Cases

As indicated in Modern-Sundt v, Oroville Hospital, case #24CV00757, the Motion to Consolidate is GRANTED.

11. **24CV02513 In re: Josephson, Kristoffer Allen**

EVENT: Change of Name (Adult) (Continued from 11/20/24 and 10/9/24)

There is no proof of publication on file. The Court will hear from Petitioner.

12. **24CV03312 In re: Gutierrez, Rebecca Marie**

EVENT: Change of Name (minor) (Continued from 11/20/24)

The Court will hear from Petitioner.

