

**Judge Benson – Law & Motion – Wednesday, October 2, 2024 @ 9:00 AM  
TENTATIVE RULINGS**

**\*\*\* For this hearing only, please call 530-532-7125 if you are requesting oral  
argument\*\*\***

**1. 19CV01754 Trimble, Crystal v. Hankins, Kathy et al**

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

The parties are ordered to appear. At the previous hearing, the Court noted a filed and served amended petition attaching a copy of the settlement agreement is necessary. Although Plaintiff's counsel has informally provided the Court with a copy of the settlement agreement, the Court does not typically accept for filing documents presented in that manner. Because CCP § 664.6 requires a written agreement (or an oral agreement before the Court which is apparently not applicable in this instance) the Court file must contain a copy of the settlement agreement so that an order pursuant to CCP § 664.6 is supported by the record.

**2. 24CV00796 Pagonis, Chris et al v. Richard, Zachary**

*EVENT: Plaintiffs' Motion for Summary Judgment*

Plaintiffs' Motion for Summary Judgment is Denied Without Prejudice for failure to comply with the notice requirements of CCP § 437c(a)(2).

CCP 437c(a)(2):

Notice of the motion and supporting papers shall be served on all other parties to the action at least 75 days before the time appointed for hearing. If the notice is served by mail, the required 75-day period of notice shall be increased by 5 days if the place of address is within the State of California

...

[Emphasis Added]

The proof of service indicates the moving papers were served by mail on July 19, 2024. According to the Court's calculation, that is exactly 75 days before the hearing. Because an additional (5) days is required for mail, notice is insufficient.

Weil & Brown Civil Procedure Before Trial (Rutter Group)

[10:80.6] Insufficient Notice not cured by continuance: Where the moving party notices the hearing in less than the required time, notice must be given anew. The court cannot cure this defect by continuing the hearing for the missing number of days. [*Robinson v. Woods*, (2008) 168CA 4th 1258, 1268].

Because the Court has no authority to simply continue the motion to cure the defect, the Court has no choice but to deny the motion without prejudice. Plaintiffs may refile the motion with renewed notice.

The Court will prepare the form of order.

**3. 24CV01644 Pro Garage Doors, Inc. v. Pitts, Tim**

*EVENT: Motion to be Relieved as Counsel (Plaintiff's Counsel)*

Motion to be Relieved as Counsel is GRANTED. The Court will sign the proposed order. The order will become effective upon the filing of a proof of service indicating the order has been served.

**4. 24CV01846 In re: Alession, Virice Lee**

*EVENT: Change of name (Adult) (Continued from 8/7/24)*

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

5. **24CV02555 In re: Noland, Dana Michael Sweetpea Bluebird Redwood Wheat**

*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.