

Judge Benson – Law & Motion – Wednesday, September 20, 2023 @ 9:00 AM
TENTATIVE RULINGS

1. 20CV00841 Avila, Norberto S v. Rehman, Naeem V et al.

EVENT: Status of Conditional Settlement (Special Set)

The Court will hear from the parties re: status of dismissal. If there are no appearances, the matter will be continued to October 18, 2023 at 9:00am. The Court shall provide notice to the parties.

2-4. 20CV01510 Ortega, Ruben et al v. Puig-Palomar, Miguel MD et al.

EVENT: (1) Application Admitting Kylr R. Hosmer as Counsel Pro Hac Vice for Specially Appearing Defendant Livanova, PLC

(2) Application for an Order Admitting Jared B Braint as Counsel Pro Hac Vice for Specially appearing Defendant Livanova PLC

(3) Defendants' Motion to Stay Discovery

Pro Hac Vice Hearings

The Pro Hac Vice applications are now moot in light of the dismissal with prejudice filed by LivaNova PLC. The Pro Hac Vice hearings are vacated.

Defendants' Motion to Stay Discovery

On the Court's motion pursuant to CCP § 1048, case # 23CV02457 (*Ortega et al. v. Poa*) is consolidated with the lead case *Ortega et al. v. Puig-Palomar* (20CV01510). Expert depositions are hereby stayed. The Court declines to stay discovery in any other respect. The Court urges the parties to meet and confer and stipulate to expert depositions prior to the timeframe prescribed by the code as it is clear depositions will need to take place well before the trial date to be scheduled at the next Case Management Conference.

5. **20CV02212 Owens, Marc et al v. Aegis Security Insurance Company et al.**

EVENT: Plaintiffs' Motion to Amend Third Amended Complaint

Plaintiffs' Motion to Amend Third Amended Complaint is GRANTED. The Court is not commenting on the legal viability of the Fourth Amended Complaint at this time. Plaintiffs shall file the Fourth Amended Complaint separately within 10 days. With this modification, the Court will sign the Proposed Order.

6-7. **21CV02497 Knoefler, Michael et al v. Knoefler, Wayne**

EVENT: (1) Motion to be Relieved as Counsel (as to Plaintiff John Knoefler)

(2) Motion to be Relieved as Counsel (as to Plaintiff Michael Knoefler)

Both motions to be relieved are granted. The Court will sign the Proposed Orders. The Orders will become effective upon the filing of a proof of service indicating the Orders have been served on Plaintiffs.

8. **22CV00649 Sirvonsa, Jayce et al. v. Foster, Jr., Lionel**

EVENT: Plaintiff's Motion for Leave to Amend Punitive Damages

Plaintiff's Motion for Leave to Amend Punitive Damages is GRANTED. Plaintiff shall file its Second Amended Complaint within 10 days. Plaintiff shall prepare and submit the form of order.

9-11. 22CV00739 Enloe Medical Center – Cohasset v. Prestige Care, Inc.

EVENT: (1) Defendant Prestige Care Inc.'s Motion to Compel Further Responses to First Set of Requests for Production of Documents and Request for Sanctions in the amount of \$2,000;

(2) Defendant Prestige Care Inc.'s Motion to Compel Further Responses to Defendant's First set of Requests for Production of Documents and Request for Sanctions in the Amount of \$2,000

(3) Defendant Prestige Care's Motion for a Trial Continuance

Special Interrogatories

The Motion is GRANTED as to nos. 3, 21, and 23. As to no. 3 Plaintiff shall identify Bates numbers identifying the alleged contract. As to no. 21, Plaintiff is to provide information as to amounts generally billed. Regarding no. 23 Plaintiff shall provide names and contact information of representatives who were involved in billing.

Production of Documents

The motion is denied.

Sanctions are GRANTED in the amount of \$2,500. Plaintiff shall provide amended responses as set forth within 20 days of notice of this order.

Trial Continuance

The motion is granted and is unopposed. The current Trial and Trial Readiness Conference dates are hereby vacated. A Case Management Conference is hereby set for October 25, 2023.

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

12. 23CV00369 Yates, Chad v. Ellenberger, Jared

EVENT: Motion to Compel Defendant's Response to Special Interrogatories, Form Interrogatories, Requests for Production, and Requests for Admission, and Impose Sanctions

Motion to Compel Defendant's Response to Special Interrogatories, Form Interrogatories, Requests for Production, and Requests for Admission, and Impose Sanctions are DENIED as moot. The request for sanctions is DENIED.

13. 23CV01638 Holley, Cindy v. Homecomings Financial Network, Inc et al.

EVENT: (1) Defendant Rocket Mortgage, LLC F/K/A Quicken Loans LLC (erroneously sued separately as "Rocket Mortgage" and "Quicken Loans Inc.") Demurrer to Complaint

(2) Defendant Rocket Mortgage, LLC F/K/A Quicken Loans LLC (erroneously sued separately as "Rocket Mortgage" and "Quicken Loans Inc.") Motion to Strike

Defendant Rocket Mortgage, LLC F/K/A Quicken Loans LLC (erroneously sued separately as "Rocket Mortgage" and "Quicken Loans Inc.") Demurrer to Complaint is SUSTAINED IN ITS ENTIRETY WITHOUT LEAVE TO AMEND. Defendant Rocket Mortgage LLC's Motion to Strike is also GRANTED.

These motions are unopposed and Plaintiff has failed to demonstrate how the complaint can be amended to state a cause of action against Rocket Mortgage LLC. Defendant Rocket Mortgage LLC shall prepare and submit a form of order consistent with this ruling.

14-15. 22CV01582 Klempa, Sandra et al. v. California Capital Insurance Company

EVENT: (1) Defendant's Demurrer to the Third Amended Complaint

(2) Defendant's Motion to Strike Portions of the Third Amended Complaint

Defendant's Demurrer to the Third Amended Complaint is SUSTAINED. Defendant's Motion to Strike Portions of the Third Amended Complaint is GRANTED. This ruling is based purely on procedural grounds – that the Court's previous ruling on demurrer did not permit leave to amend to allege new causes of action.

Plaintiff cites no authority supporting the contention that the Court can grant leave to amend as to new causes of action that did not exist in prior demurrers without a motion to amend. Although from a practical perspective leave to amend is liberally granted, nevertheless the requirement of filing a motion provides Defendant an opportunity to oppose the motion.

To be clear – this ruling in no way prevents Plaintiff from filing a motion seeking leave to amend. Rather, it simply finds that the Third Amended Complaint is procedurally defective.

For the same reasons, the Motion to Strike is also GRANTED.

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

16. 23CV02541 Butte County Animal Control v. Casebeer, Bethany et al

EVENT: Petition to Determine if Dog is Vicious

The Court will conduct a hearing.