

**Judge Mosbarger – Law & Motion – Wednesday, June 5, 2024 @ 9:00 AM
TENTATIVE RULINGS**

1. 21CV01364 RICHIE, ROBIN V. OROVILLE UNION HIGH SCHOOL DISTRICT ET AL

EVENT: Oroville Union High School District's Motion to Stay

Defendant's Request for Judicial Notice is granted. Defendant's Request for Judicial Notice is granted Defendant's Evidentiary Objections to Plaintiff's Request for Judicial Notice are sustained, and therefore Plaintiff's Request for Judicial Notice is granted only as to the existence of the various trial Court rulings, but the Court prescribes no precedential value to the actual rulings therein. In the Court's discretion, the Motion is DENIED. Counsel for the Plaintiff shall submit a form of order consistent with this ruling within two weeks.

2-3. 22CV02187 A, C v. COUNTY OF BUTTE

*EVENTS: (1) County of Butte's Motion for Judgment on the Pleadings as to Plaintiff A.C.'s First Amended Complaint, or in the Alternative, Motion to Stay Action
(2) Case Management Conference *Special Set to Trail Motion*

Defendant's Request for Judicial Notice is granted in part; specifically, as to the other trial court rulings, the Court takes judicial notice of their existence only and prescribes no precedential value to the actual rulings therein. The Court finds that the allegations in Plaintiff's Complaint are sufficient to constitute a cause of action and that Plaintiff sufficiently alleges an exemption under the Tort Claims Act. See, *Coats v. New Haven Unified District* (2020) 46 Cal.App.5th 415. The Court is not persuaded by Defendant's argument that in enacting AB 218, thereby forcing local public entities to be liable for claims which were legally barred, the Legislature has appropriated public money to pay past legal claims where no enforceable claims existed under the law. The Court concludes that there is no basis to conclude that AB 218 constitutes an unconstitutional gift of public funds and the Defendant's Motion is DENIED. Based upon this ruling, and the different postures of this and the related case – 23CV01057 ST v. County of Butte – these matters are no longer consolidated for purposes of pretrial discovery. Counsel for the Plaintiff shall submit a form of order within two weeks. The Court will conduct a Case Management Conference and counsel are ordered to appear either in person or by Court Call on June 5, 2024 at 9:00 a.m. However, this is not an invitation to present oral argument in regard to Defendant's Motion for Judgment on the Pleadings. If counsel wishes to argue the tentative ruling, they must comply with Butte County Local Rule 2.9 and California Rules of Court Rule 3.1308(a)(1).

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4. **22CV02312 ROE, MOLLY V. BOARD OF TRUSTEES OF THE CALIFORNIA STATE UNIVERSITY ET AL**

EVENT: Board of Trustees of the California State University's Motion Pursuant to CCP 2017.220 and Request for Sanctions

As the Court previously determined during the Pre-Trial Discovery Conferences conducted on February 20, 2024 and March 8, 2024, there is good cause to require the production of the unredacted version of Plaintiff's medical records and the Court declines the invitation to conduct an in-camera review of Plaintiff's unredacted medical records prior to making such an order. The Motion is GRANTED and the Court orders Plaintiff to produce her medical records without redaction as to any information regarding Plaintiff's: (1) prior and subsequent sexual assaults; (2) personal biographical information; and (3) primary care or routine visit medical information. The documents are to be produced no later than ten (10) calendar days following the Court's Order. The Court further orders that the records are designated "For Attorney's Eyes Only". This designation includes attorneys only, including Defendant's in-house counsel. However, in-house counsel shall not share documents with any other person. No unredacted medical records are to be provided to or shared with any experts, risk managers or Defendant Christopher Marks. The Court awards sanctions of \$5,000 against Plaintiff Molly Roe and her counsel of record, which are to be paid within 30 days' notice of this Order.

5. **23CV00614 JOHNSON, GILL ET AL V. MONSANTO COMPANY ET AL**

EVENT: Verified Unopposed Application of Kimberly Spangler-Loutey to Appear as Counsel Pro Hac Vice

The application to be admitted pro hac vice is granted. Kimberly Spangler-Loutey is permitted to appear as counsel pro hac vice on behalf of Plaintiffs Gill Johnson and Denise Johnson in this matter. The Court will sign the form of order submitted by counsel.

6. **23CV01517 ESTRADA, SUNNI V. RENEWABLE ENERGY LIVING, LLC ET AL**

EVENT: Defendant's Motion to Set Aside Default and Vacate Default Judgment

The filing requirements for a motion to set aside are mandatory and jurisdictional. See Code of Civil Procedure §473(b); *Manson, Iver & York v Black* (2009) 176 Cal.App.4th 36, 42; *Sporn v Home Depot, Inc.* (2005) 126 Cal.App.4th 1294; See also, *Pulte Homes Corp. v Williams Mechanical, Inc.* (2016) 2 Cal.App.5th 267, 273 (trial court could not set aside default when motion for relief from default and default judgment was filed less than 6 months after entry of default judgment but more than 6 months after entry of default; it also could not set aside default judgment because doing so would be "an idle act," since defendant would still be in default and could not oppose entry of new default judgment). Here, the deadline to file and serve a motion to set aside the default was February 1,

2024. However, the instant motion was not filed and served until May 3, 2024. Thus, the motion is untimely, the Court lacks jurisdiction, and the motion is denied on that basis.

7. 23CV01783 HAISCH CONSTRUCTION CO, INC V. NATIONAL BUILDERS, INC ET AL

EVENT: Prove Up Hearing

The Court will conduct a prove-up hearing and will hear from counsel as to proposed language to be included in the Court Judgment to avoid triple recovery. Counsel is also to provide evidence to support the basis for the requested attorney fees, as well as proposed language to avoid double recovery of such fees in relation to Causes of Action 1 and 9.

8. 24CV00006 MCENDARFER, JACOB V. MASULA, LARRY ERNEST, DC ET AL

EVENT: Motion to be Relieved as Counsel

The Motion to be Relieved as Counsel is granted and the Court will sign the form of order submitted by counsel.

9. 24CV00952 IN RE: LEE, MARCY ROSE

EVENT: Petition for Change of Name

If proper proof of publication is submitted at or before the hearing, the Petition will be granted.