

**Judge Mosbarger – Law & Motion – Wednesday, June 26, 2024 @ 9:00 AM  
TENTATIVE RULINGS**

**1. 20CV01220 CALIFORNIA OPEN LANDS V. BUTTE COUNTY DEPARTMENT OF PUBLIC WORKS**

*EVENT: Review Hearing*

This matter came on regularly for hearing on August 24, 2022, before the Honorable Stephen E. Benson, Judge Presiding, and an Order was thereafter entered that same date. The August 24, 2022 Order After Hearing, having been stricken, and this Court having considered the Third District Court’s Decision of May 4, 2024, including fully considering the applicability of out-of-area market rates by determining whether qualified local counsel was unavailable to represent Plaintiff, rules as follows:

Plaintiff’s Motion for Enforcement of Costs is granted as provided herein.

Plaintiff is awarded its full attorneys’ fees for the proceedings in the trial court, minus the prior reduction by Judge Benson of 170 hours for time incurred litigating summary judgment motions, but including reasonable hours for work on the reply to the fee motion:

|   |              |
|---|--------------|
| Mr. Carlon: 425.5 hours x \$400/hour =  | \$170,200.00 |
| Mr. Acree: 237.3 hours x \$750/hour =   | \$177,975.00 |
| Mr. Packard: 242.7 hours x \$825/hour = | \$200,227.50 |
| Total Attorneys' Fees                   | \$548,420.50 |
| Consulting Attorneys' Fees              | \$9,265.00   |
| Total Attorneys' Fees                   | \$557,667.50 |
| Litigation Costs                        | \$3,590.56   |
| Total Attorneys' Fees and Costs         | \$561,258.06 |

Counsel for the Plaintiff shall submit a form of order within two weeks.

**2. 20CV02548 EC V. OROVILLE CITY ELEMENTARY, ET AL**

*EVENT: Petition for Approval of Compromise of Claim for Minor*

The Petition for Approval of the Minor's Compromise is granted. The minor is not required to attend the hearing, the Court finding good cause to dispense with his personal appearance. The matter is set for a status hearing on August 21, 2024 at 9:00 a.m. for status of proof of deposit into blocked account. The Court will sign the Order Approving: Compromise of Disputed Claim (MC-351) submitted by counsel and counsel shall submit an Order to Deposit Funds into Blocked Account (MC-355) within two weeks.

**3. 21CV01931 HERRERA, ADESSA ET AL V. ANDERSON, ROB ET AL**

*EVENT: Defendants Nationwide Insurance Company and Allied Property and Casualty Insurance Company's Motion for Summary Judgment or, Alternatively, Summary Adjudication*

On the Court's own motion, this matter is continued to July 10, 2024 at 9:00 a.m.

**4-5. 21CV02530 GILL, JANET DIANE, MD V. ENLOE MEDICAL CENTER ET AL**

*EVENT: Plaintiff's Application for Renewal of Motion Pursuant to CCP §1008(b)*

Plaintiff's Application for Renewal of Motion is DENIED, the Court finding that Plaintiff has failed to meet the requirements of *Code of Civil Procedure* §1008. Specifically, the Court finds that the parties contemplated a continuance of the trial date at the time of the hearing on the Plaintiff's Motion for Leave of Court to File Second Amended Complaint and therefore the recent continuance of the trial date in this matter is not a new fact. However, assuming arguendo that the Court were to deem the trial continuance a new fact, the Court is not persuaded that its earlier ruling was erroneous, and therefore reaffirms the denial of Plaintiff's Motion for Leave of Court to File Second Amended Complaint on that basis as well. Counsel for the Defendants shall submit a form of order consistent with this ruling within two weeks. In regard to the Case Management Conference, the Court sets the following dates: Mandatory Settlement Conference on February 24, 2025 at 8:30 a.m. via Zoom with Judge Deems; Trial Readiness Conference on April 3, 2025 at 1:30 p.m.; and Jury Trial on April 7, 2025 at 8:00 a.m. with a 5 day estimate.

**6. 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.

**7. 22CV02789 PETERSON, TAFT V. CANTERBURY, STEVE**

*EVENT: Order of Examination (Steve Canterbury)*

The Court will swear in the Judgment Debtor, Steve Canterbury, for examination.

**8. 23CV00314 HENRY, MONICA V. MOORE, JELLEETHER MARIE ET AL**

*EVENT: Motion to Compel Further Responses to Discovery, Set One, and for Monetary Sanctions Against Defendant Jellether Marie Moore*

When no response to discovery is given, all that need be shown in the moving papers is that a set of discovery was properly served on the opposing party, that the time to respond has expired, and that no response of any kind has been served. See, *Leach v. Sup. Ct. (Markum)* (1980) 111 Cal.App.3d 902, 905-906. No meet and confer efforts are required. See *Sinaiko Healthcare Consulting, Inc. v. Pacific Healthcare Consultants* (2007) 148 Cal.App. 4th 390, 411. The Motion is GRANTED. Defendant Jellether Marie Moore is to provide verified responses to Form Interrogatories, Set One; Special Interrogatories, Set One; Request for Production of Documents, Set One; and Request for Admissions, Set One, without objections, within 15 days' notice of this Order. Sanctions are awarded against Defendant Jellether Marie Moore in the amount of \$1,750. The Court will sign the form of order submitted by counsel.

**9-10. 23CV02149 HOLLIS, WESLEY V. SIERRA PACIFIC INDUSTRIES ET AL**

*EVENTS: (1) Petition for Approval of Compromise of Claim or Action or Disposition of Proceeds of Judgment for Minor or Person with a Disability*

*(2) Case Management Conference \*Special Set*

The Petition for Approval of Compromise of Claim or Action or Disposition of Proceeds of Judgment for Minor or Person with a Disability is GRANTED. No appearances are required, the Court finding good cause to dispense with personal appearances. The matter is set for a status hearing on August 27, 2024 at 9:00 a.m. for status of proof of funding the Special Needs Trust and status of dismissal. The Court will sign the form of order submitted by counsel. The Case Management Conference is off calendar.

**11. 23CV03296 IN RE THE PETITION OF: KAUTZ, PAIGE MORGAN**

*EVENT: Petition for Change of Name*

The Court is inclined to grant the Petition and sign the proposed Decree submitted by the Petitioner. If the Objector, Anthony White, wishes to argue the tentative ruling, he must comply with Butte County Local Rule 2.9 and California Rules of Court Rule 3.1308(a)(1).

**12. 24CV00001 BRISTER, MAKENA V. RABORN, ASHLI ET AL**

*EVENT: Motion to Strike Plaintiff's First Amended Complaint as to Punitive Damages*

The Court finds that the factual allegations of the First Amended Complaint are insufficient to support a claim of punitive damages and the Motion to Strike Plaintiff's First Amended Complaint as to Punitive Damages is granted. However, the Court grants leave to amend. Any amended Complaint shall be filed and served within 10 days' notice of this order. The Court will utilize the form of order submitted by Defendant.

**13. 24MH00174 BUTTE COUNTY SHERIFF'S OFFICE V. TUNNO, FIDEL**

*EVENT: Petition for Order of Default for Judicial Determination Re: Return of Confiscated Firearms*

The Petition for Order of Default for Judicial Determination Re: Return of Confiscated Firearms is granted. The Court will sign the form of order submitted by counsel and the Status Conference set for August 7, 2024 is vacated.