

**Judge Mosbarger – Law & Motion – Wednesday, February 5, 2025 @ 9:00 AM
TENTATIVE RULINGS**

1. 21CV02330 DECKER, MICHAEL P ET AL V. SIERRA PACIFIC LAND & TIMBER COMPANY ET AL

EVENT: Motion for Bifurcation

Cross-Defendants' Michael P. Decker and Decker Ranch, LLC ("Cross-Defendants" herein) Request for Judicial Notice is granted. The Court finds that Cross-Defendants have failed to show that the convenience of witnesses, the ends of justice, or the economy and efficiency of handling the litigation would be promoted by the requested bifurcation and thus have failed to meet the requirements of *Code of Civil Procedure* §§598 and/or 1048(b). The Motion is denied. Counsel for the Cross-Complainants Sierra Pacific Land & Timber Company and Sierra Pacific Industries, Inc. shall submit a form of order consistent with this ruling within two weeks.

2. 21CV02398 ACOSTA, RUBI ET AL V. OROVILLE HOSPITAL ET AL

EVENT: Defendants' Motion for Judgment on the Pleadings

The Court notes as an initial matter that it has not read nor considered the Separate Statement of Undisputed Material Facts in Support of the Motion for Judgment on the Pleadings filed by the Defendants on January 9, 2025, as it appears that Separate Statement was erroneously filed and subsequently withdrawn by the Defendants.

Before a motion for judgment on the pleadings may be filed, the parties must meet and confer (in person or by telephone) with the party who filed the objectionable pleading to determine whether an agreement can be reached that would resolve the objections to the pleading. *Code of Civil Procedure* §439(a). Here, there is no evidence that Defendants attempted to meet and confer prior to filing the Motion, nor has a Declaration been filed in compliance with *Code of Civil Procedure* §439(a)(3)(A)-(B). However, *Code of Civil Procedure* §439(a)(4) states that "[a] determination by the court that the meet and confer process was insufficient shall not be grounds to grant or deny the motion for judgment on the pleadings." Thus, while the Court finds the meet and confer efforts to be insufficient, the Court will not deny the Motion on this basis.

Defendants' Request for Judicial Notice is granted.

The statutory deadline for a motion for judgment on the pleadings is 30 days before the initial trial date pursuant to CCP §438(e). Here, this case was initially set for trial on July 10, 2023, and therefore the Motion is untimely and is denied. Counsel for the Plaintiffs shall submit a form of order within two weeks.

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3. **21CV02514 LAKOTA, MATHEW M ET AL V. SYNTROL ENERGY SALES SOLUTIONS, INC ET AL**

EVENT: Defendant Solar Mosaic LLC's Motion to Compel Arbitration and Stay Proceedings

Defendant Solar Mosaic LLC's Motion to Compel Arbitration and Stay Proceedings is unopposed and is granted. The Case Management Conference on March 12, 2025 is vacated and the matter is set for a Review Hearing for status of arbitration on August 6, 2025 at 10:30 a.m. The Court will sign the form of order submitted by counsel.

4. **22CV02114 BANEGAS, KIMBERLY V. WITTMEIER, INC ET AL**

EVENT: Defendants' Motion to Tax Costs

The Court is not persuaded by Defendants' argument relating to the failure of Plaintiff to obtain a judgment greater than the jurisdictional minimum for Superior Court Unlimited Jurisdiction, the Court also considering the ruling relative to rescission. The Motion to tax the entirety of Plaintiff's Memorandum of Costs is denied on that basis.

As to the specific costs requested, Plaintiff has agreed to withdraw the request for (1) \$1,050 for the transcript of the hearing on equitable relief, which is included in the "Other" category of costs; and (2) \$1,144.20 for costs unrelated to documents for trial, which is included in the "Other" category as well. Thus, the Court grants the Motion as to the above costs, totaling \$2,194.20.

In regard to travel costs, based upon the evidence submitted by the Plaintiff, the Court finds that only \$3,945.90 is supported as recoverable costs. As such, the Court taxes the amount requested in the sum of \$304.27, and awards travel costs of \$3,945.90.

Models, enlargements, and photocopies of exhibits, and the electronic presentation of exhibits, including costs of rental equipment and electronic formatting, may be allowed if they were reasonably helpful to aid the trier of fact. CCP §1033.5(a)(13). Materials that were not used at trial are not categorically recoverable under CCP §1033.5(a)(13) but may be awarded on the court's discretion pursuant to CCP §1033.5(c)(4) as long as the materials were reasonably necessary to the conduct of litigation, reasonable in amount, and recovery is not otherwise barred by statute. *Segal v ASICS Am. Corp.* (2022) 12 Cal.5th 651, 667. See *Benach v County of Los Angeles* (2007) 149 Cal.App.4th 836, 856 (costs allowed when claiming party could not have anticipated exhibits would not be used); *Applegate v St. Francis Lutheran Church* (1994) 23 Cal.App.4th 361, 363 (costs allowed if necessary and reasonable). Here, the Court finds that Plaintiff has failed to substantiate the claimed costs and therefore the Motion is granted as to this category, with costs taxed in the amount of \$1,083.30.

In the Court's discretion, pursuant to CCP §1033.5(c)(4), the Court concludes that the remaining disputed costs, Plaintiff has demonstrated that these were reasonably necessary to the conduct of the litigation, and the Motion is denied in all other respects.

The Court taxes costs in the amount of \$3,581.77 and Plaintiff is awarded costs in the amount of \$15,158.71. The Court will utilize the form of order submitted by the Defendants.

5. 24CV03246 IN RE: BEALS, TYLER ALAN

EVENT: Petition for Change of Name

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

6. 24CV03476 IN RE: ENGDahl, ZECHARIAH ELIJAH THOMAS

EVENT: Petition for Change of Name

The Court has not received a Certified copy of the Order from The Superior Court, County of Floyd, State of Georgia, which was to be attached to a Declaration signed by the Petitioner under penalty of perjury. The Petition is denied without prejudice.