01-12-24
Dept. 9
Tentative Rulings

1. 23CV2083 EL DORADO SAVINGS BANK v. RUNNELS, ET AL

Complaint-in-Interpleader

Decedent John Runnels opened an account at El Dorado Savings Bank's ("Bank") South Lake Tahoe branch before he died on December 29, 2022. Decedent's estate is in probate (23PR0004) and Travis Runnels was appointed the Administrator of the estate on June 7, 2023.

Both Travis Runnels and Raphael Townsend are named as Defendants-in-interpleader because both claim the right to the funds of John Runnels that are held by the Bank. Bank is depositing the funds in that account with the court in connection with its Complaint-in-interpleader.

> An interpleader action is an equitable proceeding. (*Union Mutual Life Ins. Co. v. Broderick* (1925) 196 Cal. 497, 502, 238 P. 1034; *Williams v. Gilmore*, supra, 51 Cal.App.2d at p. 688, 125 P.2d 539.) In an interpleader action, the court initially determines the right of the plaintiff to interplead the funds; if that right is sustained, an interlocutory decree is entered which requires the defendants to interplead and litigate their claims to the funds. Upon an admission of liability and deposit of monies with the court, the plaintiff then may be discharged from liability and dismissed from the interpleader action. (*Hancock Oil Co. v. Hopkins* (1944) 24 Cal.2d 497, 508, 150 P.2d 463; *City of Morgan Hill v. Brown*, supra, 71 Cal.App.4th at p. 1122, 84 Cal.Rptr.2d 361; *Van Orden v. Anderson, et al.* (1932) 122 Cal.App. 132, 140-141, 9 P.2d 572.) The effect of such an order is to preserve the fund, discharge the stakeholder from further liability, and to keep the fund in the court's custody until the rights of the potential claimants of the monies can be adjudicated. (*City of Morgan Hill v. Brown*, supra, 71 Cal.App.4th at pp. 1122, 1127-1128, 84 Cal.Rptr.2d 361; *Weingetz v. Cheverton* (1951) 102 Cal.App.2d 67, 80, 226 P.2d 742.) Thus, the interpleader proceeding is traditionally viewed as two lawsuits in one. The first dispute is between the stakeholder and the claimants to determine the right to interplead the funds. The second dispute to be resolved is who is to receive the interpleaded funds. (*San Francisco Savings Union v. Long* (1898) 123 Cal. 107, 109, 55 P. 708; *State Farm Fire & Casualty Co. v. Pietak* (2001) 90 Cal.App.4th 600, 612, 109 Cal.Rptr.2d 256; *Lincoln Nat. Life Ins. Co. v. Mitchell* (1974) 41 Cal.App.3d 16, 19, 115 Cal.Rptr. 723.)

Dial 800 v. Fesbinder (2004) 118 Cal.App.4th 32, 42-43.

Both Defendants-in-interpleader have signed Notices and Acknowledgment of Receipt of the Summons and Complaint. There is no opposition on file with the court.

TENTATIVE RULING #1: PLAINTIFF-IN-INTERPLEADER'S REQUESTS ARE GRANTED AS FOLLOWS:

(1) THE DEFENDANTS-IN-INTERPLEADER ARE ORDERED TO INTERPLEAD IN THE ACTION TO DETERMINE THE RIGHT TO THE FUNDS DEPOSITED WITH THE PLAINTIFF-IN-INTERPLEADER;

(2) THE DEFENDANTS-IN-INTERPLEADER ARE ENJOINED FROM FILING ANY FURTHER PROCEEDINGS AGAINST THE PLAINTIFF-IN-INTERPLEADER IN CONNECTION WITH THEIR CLAIMS TO THE FUNDS;

(3) ONCE THE FUNDS ARE DEPOSITED WITH THE COURT THE PLAINTIFF-IN-INTERPLEADER IS DISCHARGED FROM ANY LIABILITY BASED ON THE CLAIMS OF THE DEFENDANTS-IN-INTERPLEADER TO THE FUNDS; AND

(4) PLAINTIFF-IN-INTERPLEADER SHALL RECOVER REASONABLE ATTORNEYS' FEES AND COSTS TO BE PAID OUT OF THE FUNDS AT THE CONCLUSION OF THE ACTION.

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 621-6551 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07; SEE ALSO LEWIS V. SUPERIOR COURT, 19 CAL.4TH 1232, 1247 (1999).

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2. 23CV1871 IN THE MATTER OF ASSET SECURITY CONSULTING, LLC

Transfer of Payment Rights

This Petition was previously heard by the court on December 29, 2023, and was continued because the documents filed in support of the Petition did not demonstrate compliance with the statutory requirement that the legally required disclosures be provided to the transferor at least ten days before executing the transfer agreement.

Petitioner subsequently filed documents substantiating compliance with the applicable statutes.

TENTATIVE RULING #2: ABSENT OBJECTION, THE PETITION IS GRANTED AS REQUESTED.

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3. 23CV1500 KUVAKOS v. ROSS

Motion for Sanctions

Plaintiff filed a verified Complaint on September 5, 2023, seeking to have real property partitioned as between Plaintiff and Defendant, who is Plaintiff's sister and is the record owner of the property. See Declaration of Elijah Underwood, dated November 3, 2023 ("Underwood Declaration"), Exhibit 1. As part of the litigation a deposition of Plaintiff was conducted on October 12, 2023. Underwood Declaration, Exhibit 2.

Defendant brings this motion arguing that the Complaint for partition is frivolous, because Plaintiff does not have standing to bring a partition action. Code of Civil Procedure § 872.210(a)(2) allows a partition action to be brought by an "owner" of an estate in real property "owned by several persons concurrently or in successive estates." In this case, the deposition of Plaintiff acknowledges that Defendant is the owner and that the goal of the litigation is to enforce an alleged oral promise to transfer real estate, or to obtain restitution for the value of Plaintiff's contributions to the property. Underwood Declaration, Exhibit 2, pages 32:6-23; 56:12-14.

Plaintiff's Opposition cites the contributions to the property made by Plaintiff, with an alleged value of approximately $30,000, and alleged oral promises made by Defendant.

Plaintiff notes that he filed an amended Complaint on December 11, 2023, to add causes of action for breach of contract, intentional fraud and negligent misrepresentation; however that amendment was filed after the Defendant's demurrer was filed on November 9, 2023, and was without leave of court.

Defendants claim a total of $14,955 in costs and attorney's fees have been incurred in defending this action.

Defendants make this motion pursuant to the authority of Code of Civil Procedure §§ 128.5 and 128.7.

Code of Civil Procedure §§ 128.5 provides, in pertinent part:

> (a) A trial court may order a party, the party's attorney, or both, to pay the reasonable expenses, including attorney's fees, incurred by another party as a result of actions or tactics, made in bad faith, that are frivolous or solely intended to cause unnecessary delay. . . .
>
> (b) For purposes of this section:
>
> (1) "Actions or tactics" include, but are not limited to, the making or opposing of motions or the filing and service of a complaint, cross-complaint, answer, or other responsive pleading. . . .

(2) “Frivolous” means totally and completely without merit or for the sole purpose of harassing an opposing party.

(c) Expenses pursuant to this section shall not be imposed except on notice contained in a party's moving or responding papers or, on the court's own motion, after notice and opportunity to be heard. An order imposing expenses shall be in writing and shall recite in detail the action or tactic or circumstances justifying the order.

* * *

(f) Sanctions ordered pursuant to this section shall be ordered pursuant to the following conditions and procedures:

(1) If, after notice and a reasonable opportunity to respond, the court issues an order pursuant to subdivision (a), the court may, subject to the conditions stated below, impose an appropriate sanction upon the party, the party's attorneys, or both, for an action or tactic described in subdivision (a). In determining what sanctions, if any, should be ordered, the court shall consider whether a party seeking sanctions has exercised due diligence.

(A) A motion for sanctions under this section shall be made separately from other motions or requests and shall describe the specific alleged action or tactic, made in bad faith, that is frivolous or solely intended to cause unnecessary delay.

(B) If the alleged action or tactic is the making or opposing of a written motion or the filing and service of a complaint, cross-complaint, answer, or other responsive pleading that can be withdrawn or appropriately corrected, a notice of motion shall be served as provided in Section 1010, but shall not be filed with or presented to the court, unless 21 days after service of the motion or any other period as the court may prescribe, the challenged action or tactic is not withdrawn or appropriately corrected.

(C) If warranted, the court may award to the party prevailing on the motion the reasonable expenses and attorney's fees incurred in presenting or opposing the motion. Absent exceptional circumstances, a law firm shall be held jointly responsible for violations committed by its partners, associates, and employees.

(D) If the alleged action or tactic is the making or opposing of a written motion or the filing and service of a complaint, cross-complaint, answer, or other responsive pleading that can be withdrawn or appropriately corrected, the court on its own motion may enter an order describing the specific action or tactic, made in bad faith, that is frivolous or solely intended to cause unnecessary delay, and direct an attorney, law firm, or party to show cause why it has made an action or tactic as defined in subdivision (b), unless, within 21 days of service of the order to show cause, the challenged action or tactic is withdrawn or appropriately corrected.

(2) An order for sanctions pursuant to this section shall be limited to what is sufficient to deter repetition of the action or tactic or comparable action or tactic by others similarly situated. Subject to the limitations in subparagraphs (A) and (B), the sanction may consist

of, or include, directives of a nonmonetary nature, an order to pay a penalty into court, or, if imposed on motion and warranted for effective deterrence, an order directing payment to the movant of some or all of the reasonable attorney's fees and other expenses incurred as a direct result of the action or tactic described in subdivision (a).

(A) Monetary sanctions may not be awarded against a represented party for a violation of presenting a claim, defense, and other legal contentions that are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law.

* * *

Code of Civil Procedure §§ 128.7 provides, in pertinent part:

(a) Every pleading, petition, written notice of motion, or other similar paper shall be signed by at least one attorney of record in the attorney's individual name, or, if the party is not represented by an attorney, shall be signed by the party. Each paper shall state the signer's address and telephone number, if any. Except when otherwise provided by law, pleadings need not be verified or accompanied by affidavit. An unsigned paper shall be stricken unless omission of the signature is corrected promptly after being called to the attention of the attorney or party.

(b) By presenting to the court, whether by signing, filing, submitting, or later advocating, a pleading, petition, written notice of motion, or other similar paper, an attorney or unrepresented party is certifying that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, all of the following conditions are met:

(1) It is not being presented primarily for an improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.

(2) The claims, defenses, and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law.

(3) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery.

(4) The denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on a lack of information or belief.

(c) If, after notice and a reasonable opportunity to respond, the court determines that subdivision (b) has been violated, the court may, subject to the conditions stated below, impose an appropriate sanction upon the attorneys, law firms, or parties that have violated subdivision (b) or are responsible for the violation. In determining what sanctions, if any, should be ordered, the court shall consider whether a party seeking sanctions has exercised due diligence.

(1) A motion for sanctions under this section shall be made separately from other motions or requests and shall describe the specific conduct alleged to violate subdivision (b). Notice of motion shall be served as provided in Section 1010, but shall not be filed with or presented to the court unless, within 21 days after service of the motion, or any other period as the court may prescribe, the challenged paper, claim, defense, contention, allegation, or denial is not withdrawn or appropriately corrected. If warranted, the court may award to the party prevailing on the motion the reasonable expenses and attorney's fees incurred in presenting or opposing the motion. Absent exceptional circumstances, a law firm shall be held jointly responsible for violations committed by its partners, associates, and employees.

(2) On its own motion, the court may enter an order describing the specific conduct that appears to violate subdivision (b) and directing an attorney, law firm, or party to show cause why it has not violated subdivision (b), unless, within 21 days of service of the order to show cause, the challenged paper, claim, defense, contention, allegation, or denial is withdrawn or appropriately corrected.

(d) A sanction imposed for violation of subdivision (b) shall be limited to what is sufficient to deter repetition of this conduct or comparable conduct by others similarly situated. Subject to the limitations in paragraphs (1) and (2), the sanction may consist of, or include, directives of a nonmonetary nature, an order to pay a penalty into court, or, if imposed on motion and warranted for effective deterrence, an order directing payment to the movant of some or all of the reasonable attorney's fees and other expenses incurred as a direct result of the violation.

(1) Monetary sanctions may not be awarded against a represented party for a violation of paragraph (2) of subdivision (b).

(2) Monetary sanctions may not be awarded on the court's motion unless the court issues its order to show cause before a voluntary dismissal or settlement of the claims made by or against the party that is, or whose attorneys are, to be sanctioned.

(e) When imposing sanctions, the court shall describe the conduct determined to constitute a violation of this section and explain the basis for the sanction imposed.

(f) In addition to any award pursuant to this section for conduct described in subdivision (b), the court may assess punitive damages against the plaintiff upon a determination by the court that the plaintiff's action was an action maintained by a person convicted of a felony against the person's victim, or the victim's heirs, relatives, estate, or personal representative, for injuries arising from the acts for which the person was convicted of a felony, and that the plaintiff is guilty of fraud, oppression, or malice in maintaining the action.

(g) This section shall not apply to disclosures and discovery requests, responses, objections, and motions.

(h) A motion for sanctions brought by a party or a party's attorney primarily for an improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation, shall itself be subject to a motion for sanctions. It is the intent of the Legislature that courts shall vigorously use its sanctions authority to deter that improper conduct or comparable conduct by others similarly situated.

(i) This section shall apply to a complaint or petition filed on or after January 1, 1995, and any other pleading, written notice of motion, or other similar paper filed in that matter.

The court finds that Defendants' motion complies with statutory requirements and that Plaintiff's filings meet the definition of "frivolous actions or tactics."

TENTATIVE RULING # 3: DEFENDANT'S MOTION IS GRANTED. ATTORNEY'S FEES AND COSTS INCURRED IN DEFENDING THIS ACTION OF $14,955 ARE AWARDED TO DEFENDANT AS A SANCTION FOR VIOLATION OF CODE OF CIVIL PROCEDURE § 128.5.

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4. PCL20180059 BENNETT v. RELIABLE MANPOWER, INC.

(1) Motion to Quash

(2) Motion to Amend Judgment to Include Successor Corporation

Janice Bennett was an employee of a retail store, Alpine Market, which was owned by Reliant Manpower, Inc., a California corporation. Ms. Bennet obtained an award against her employer from the California Labor Commission on February 7, 2018, which was reduced to a civil judgment. Ms. Bennet subsequently assigned the claim to George Sommers pursuant to Code of Civil Procedure § 673. On August 30, 2023, Sommers filed a motion to amend the judgment to include Tahoe Green 2022, alleged to be the successor corporation to the judgment debtor.

Motion to Quash

Tahoe Green 2022, a California corporation ("Tahoe Green"), files this motion to quash asserting that this court lacks jurisdiction over it on the grounds that it was not a party to the Labor Commission proceedings, is not a party to this action and has never been properly served with any documents in this case. In fact, it was not incorporated until 2021, several years after the Labor Commission award.

Code of Civil Procedure § 416.10 provides:

A summons may be served on a corporation by delivering a copy of the summons and the complaint by any of the following methods:

(a) To the person designated as agent for service of process . . . .

(b) To the president, chief executive officer, or other head of the corporation, a vice president, a secretary or assistant secretary, a treasurer or assistant treasurer, a controller or chief financial officer, a general manager, or a person authorized by the corporation to receive service of process.

If personal service on the individual is not possible, the Code of Civil Procedure provides an alternative:

In lieu of personal delivery of a copy of the summons and complaint to the person to be served as specified in Section 416.10 . . . , a summons may be served by leaving a copy of the summons and complaint during usual office hours in his or her office or, if no physical address is known, at his or her usual mailing address, other than a United States Postal Service post office box, with the person who is apparently in charge thereof, and by thereafter mailing a copy of the summons and complaint by first-class mail, postage prepaid to the person to be served at the place where a copy of the summons and complaint were left.

Code of Civil Procedure § 415.20(a).

On September 20, 2023, Sommers filed a proof of service of the motion to amend the judgment to include Tahoe Green as a successor corporation to Reliant Manpower, Inc. The proof of service includes Hossein Kazemi as the agent for service of process of Tahoe Green 2022, and indicates that service was made by depositing the motion to amend the judgment to include successor corporation in the first class mail on September 14, 2023. There is nothing in the court's files to indicate that Sommers ever attempted to serve Tahoe Green by delivering the relevant pleadings to its address of record for service of process.

Accordingly, Tahoe Green's motion to quash is granted for lack of proper service.

Motion to Amend Judgment

The motion to quash having been granted, the court cannot address the motion to amend the judgment to include Tahoe Green until such time as Tahoe Green is properly served.

TENTATIVE RULING #4: THE MOTION TO QUASH IS GRANTED.

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 621-6551 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07; SEE ALSO LEWIS V. SUPERIOR COURT, 19 CAL.4TH 1232, 1247 (1999).

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5. PC20210246 WELLS v. RAMOS, ET AL

Compromise Minor's Claim

This is a petition to compromise a minor's claim. At the previous hearing held on December 29, 2023, the court declined to approve the Petition because there were no invoices for the reimbursement amount for health care services provided to the minor attached to the Petition, as required by Local Rules of the El Dorado County Superior Court, Rule 7.10.12A.(6).

Further, there were no copies of bills substantiating the claimed costs attached to the Petition as required by Local Rules of the El Dorado County Superior Court, Rule 7.10.12A.(6).

Finally, outstanding fees are due to the court clerk according to the court's file.

Counsel for Petitioner submitted a declaration on January 5, 2024, that included documentation of medical expenses and costs.

TENTATIVE RULING #5: THE PETITION IS APPROVED AS REQUESTED, CONDITIONAL UPON PAYING ANY OUTSTANDING FILING FEES DUE TO THE CLERK OF THE COURT.

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 621-6551 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07; SEE ALSO LEWIS V. SUPERIOR COURT, 19 CAL.4TH 1232, 1247 (1999).

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6. 23CV1468 FRITZ v. ESLICK

Motion to Set Aside Default

Default judgment was entered against Defendant James Eslick ("Defendant") on October 9, 2023. Defendant filed a motion to set aside the default pursuant to Code of Civil Procedure § 437(b) on the grounds of mistake, inadvertence, surprise or excusable neglect. Defendant represents that on October 9, 2023, he was undergoing oral surgery which rendered him unable to file an Answer on October 9, 2023.

Plaintiff's Opposition notes that while the default was entered on October 9, 2023, Defendant's Answer was due on September 29, 2023, based on the August 30, 2023, date that the Complaint was served on the Defendant. *See* Declaration of Bruce Grego, dated December 27, 2023, Exhibit 1 (proof of service of Summons and Complaint).

Accordingly, Defendant has submitted no factual basis on which the court can base relief from the judgment.

TENTATIVE RULING #6: DEFENDANT'S MOTION TO SET ASIDE DEFAULT JUDGMENT IS DENIED.

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7. 23CV2089 MATTER OF SHIRLEY A. BARBERA

Compromise Claim of Person with a Disability

This is a petition to compromise a claim of a person with a disability. The petition states that this settlement results from Shirley Barbera's husband's wrongful death action in San Francisco Superior Court (Case No. CGC-11-275838).

Petitioner, who is Shirley Barbera's daughter, requests the court authorize a compromise of the claim in the gross amount of $399,056.32; however, it appears from Attachment 3D of the Petition that the distribution from the settlement of the action to Shirley Barbera is of net funds after deducting various withholdings of costs (such as Medicare liens charged to decedent in the wrongful death action) and attorney's fees, and after apportioning the settlement amount between four plaintiffs, such that the gross distribution to Shirley Barbera will be in the amount of $91,277.34. Petition, Attachment 3D. According to the Petition, no other fees or costs are proposed to be deducted from that settlement amount.

The San Francisco Superior Court's Order, dated May 3, 2023, states that "Funds allocated to the Estate of Mario Barbera and/or to Shirley Barbera as wrongful death heir, are to be held until such time as an additional order is obtained pursuant to a Petition to Compromise Claim of a Disabled Person." The funds are held by Brayton Purcell, LLP, the law firm that represented Plaintiffs in the wrongful death case. Petition, Attachment 3D.

Petitioner, daughter of Shirley Barbera, was appointed guardian ad litem of Shirley Barbera for the purposes of the wrongful death action on October 25, 2022, based on declarations by medical professionals that Shirley Barbera was not capable of managing her own financial or medical affairs. Petition, Attachment 3C.

The Petition requests the court to adopt the following language in the Proposed Order, paragraph 8(b)(2): "Settlement fund disbursements, attorney fees, costs and liens if any (e.g. payable to Medicare) will be disbursed in accordance with this court order and the attorney contingency fee agreement. This order authorizes Brayton Purcell to pay/reimburse lines, pay attorneys fees/costs per the Brayton Purcell/Shirley Barbera agreement, disburse current and future settlement funds apportioned to Shirley Barbera. The Mario and Shirley Barbera Living Trust dated 09/22/2015 successor trustee will deposit, manage and oversee these settlement funds on behalf of Shirley Barbera. Shirley Barbera's funds are used solely for her expenses."

Although the Petition indicates that Petitioner is "trustee' for Shirley Barbera, the requested language of a court Order does not expressly state that the funds will be deposited into the trust account, does not expressly indicate that any funds directed to Petitioner would be in her capacity as trustee of her mother's trust. If the payment is to be made to Petitioner as trustee to be administered as part of the Trust, there is no reason for this court's Order to include language limiting the use of those funds solely for Shirley Barbera's expenses.

Further, the settlement amount appears to reflect deductions anticipated by the court to have been made prior to disbursement to Shirley Barbera and so it is not clear why additional authority to pay Medicare and attorney's fees would be required at this stage. If such costs and fees are to be deducted, Local Rules require invoices to document those deductions.

Petitioner further requests the court to authorize her to act on her mother's behalf for the purpose of potential future wrongful death lawsuits without submitting a new petition to the court. Petitioner notes that Shirley Barbera has executed a durable power of attorney that grants her the power to take any actions she believes necessary or desirable with respect to any claim that her mother may have and with respect to any legal proceeding in which her parents have an interest. If this is correct then she does not require authorization from this court to pursue future claims, and further, this request is beyond the scope of this proceeding.

Petitioner seeks the court's approval for the settlement funds be released to Shirley Barbera, for the reimbursement of Medicare and/or healthcare liens and for attorney's fees and costs. These are all matters that were addressed in the Order of the San Francisco Superior Court's.

Petitioner seeks the court's approval of her representation of Shirley Barbera on all aspects of the Mario Barbera wrongful death case. This provision is already addressed by the appointment of Petitioner as guardian ad litem for the purpose of the wrongful death action in San Francisco Superior Court.

Petitioner seeks the court's approval of the successor trustee named in the Mario and Shirley Barbera Living Trust, dated 09/22/2015 to represent Shirley Barbera if Stefanie Suzzette Carpenter is no longer able to do so. Making orders with respect to the administration of a trust that is not before the court is beyond the scope of this proceeding.

Petitioner requests the court to find that "claimant's consent to this order is not required because the claimant is a minor, a conservatee or a person who lacks the capacity to consent to the order within the meaning of Probate Code § 812". Proposed Order ¶ 6(b). This finding is not required because Petitioner has standing to file this Petition by virtue of her status as guardian ad litem for Shirley Barbera in the wrongful death action. Code of Civil Procedure § 372(a)(3).

Petitioner requests the court to authorize and direct her to "provide Brayton Purcell the court decision/order related to this matter on behalf of Shirley Barbera." There is no reason why this court's authorization is needed for Petitioner to provide her attorney with documentation of this court's order on this Petition. Proposed Order ¶10(c).

Petitioner's appearance is required to clarify what amount will be received by Shirley Barbera from the settlement; whether any additional deductions will be made from that amount (and if so to provide documentation of those deductions); whether Petitioner requests the court's approval to have the funds paid to her mother, to Petitioner as trustee of her mother's

trust or to Petitioner as an individual, and if it is proposed to be paid to Petitioner as an individual, why the court should not require the funds to be deposited in a blocked account and limiting withdrawals to those made with the courts approval (Judicial Council Form MC-355).

TENTATIVE RULING #5: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON FRIDAY JANUARY 12, 2024, IN DEPARTMENT NINE.

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 621-6551 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07; SEE ALSO LEWIS V. SUPERIOR COURT, 19 CAL.4TH 1232, 1247 (1999).

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8. 23CV0518 LE v. RAM ET AL

Motion to Amend Complaint

Plaintiff moves for court approval to file a Second Amended Complaint pursuant to Code of Civil Procedure §§ 473(a), 576.

The parties have entered into a stipulation pursuant to which Defendants' counsel has indicated non-opposition to Plaintiffs' motion for leave to amend the Complaint to reflect a corrected caption and additional allegations to support the existing causes of action.

TENTATIVE RULING #8: ABSENT OBJECTION THE MOTION IS GRANTED AS REQUESTED. PLAINTIFF IS ORDERED TO FILE A SECOND AMENDED COMPLAINT WITHIN TEN DAYS OF THIS ORDER.

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 621-6551 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07; SEE ALSO LEWIS V. SUPERIOR COURT, 19 CAL.4TH 1232, 1247 (1999).

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9. 23CV1965 QUALITY LOAN SERVICE CORP. v. ALL CLAIMANTS TO SURPLUS FIND AFTER TRUSTEE'S SALE OF REAL PROPERTY

Petition re Deposit of Undistributed Surplus Proceeds of Trustee's Sale

On November 13, 2023, Quality Loan Service Corp. (Petitioner) filed a Petition on Judicial Council Form CIV-170 (Petition and Declaration Regarding Unresolved Claims and Deposit of Undistributed Surplus Proceeds of Trustee's Sale).

Petitioner declares that following the sale of real property pursuant to a trustee's foreclosure sale for default, surplus proceeds remained after paying all outstanding notes, claims and fees. The previous owner of the property is deceased (Petition, Exhibit B). On August 17, 2023, the trustee sent Notice of Surplus Funds to all persons entitled to notice in accordance with Civil Code §§ 2924b and 2924j(a) (Petition, Exhibit A), and a second Notice on September 19, 2023, (Petition, Exhibit C), but no claimants to the surplus proceeds have submitted completed claims to the funds.

Proof of Service of Notice of the Petition is appended to the Petition as Attachment 13, in compliance with Civil Code § 2924j(d).[1]

Petitioner seeks to deposit the surplus funds with the court pursuant to Civil Code § 2924j(c):

> If, after due diligence, the trustee is unable to determine the priority of the written claims received by the trustee to the trustee's sale surplus of multiple persons or if the trustee determines there is a conflict between potential claimants, the trustee may file a declaration of the unresolved claims and deposit with the clerk of the superior court of the county in which the sale occurred, that portion of the sales proceeds that cannot be distributed, less any fees charged by the clerk pursuant to this subdivision. The declaration shall specify the date of the trustee's sale, a description of the property, the names and addresses of all persons sent notice pursuant to subdivision (a), a statement that the trustee exercised due diligence pursuant to subdivision (b), that the trustee provided written notice as required by subdivisions (a) and (d) and the amount of the sales proceeds deposited by the trustee with the court. Further, the trustee shall submit a copy of the trustee's sales guarantee and any information relevant to the identity, location, and priority of the potential claimants with the court and shall file proof of service of the notice required by subdivision (d) on all persons described in subdivision (a).

[1] As applicable to the facts alleged in the Petition, persons entitled to notice of the Petition include the successor in interest of the estate or interest of the trustor or mortgagor of the deed of trust or mortgage being foreclosed. Civil Code § 2924b(c)(2).

> The clerk shall deposit the amount with the county treasurer or, if a bank account has been established for moneys held in trust under paragraph (2) of subdivision (a) of Section 77009 of the Government Code, in that account, subject to order of the court upon the application of any interested party. The clerk may charge a reasonable fee for the performance of activities pursuant to this subdivision equal to the fee for filing an interpleader action pursuant to Chapter 5.8 (commencing with Section 70600) of Title 8 of the Government Code. Upon deposit of that portion of the sale proceeds that cannot be distributed by due diligence, the trustee shall be discharged of further responsibility for the disbursement of sale proceeds. A deposit with the clerk of the court pursuant to this subdivision may be either for the total proceeds of the trustee's sale, less any fees charged by the clerk, if a conflict or conflicts exist with respect to the total proceeds, or that portion that cannot be distributed after due diligence, less any fees charged by the clerk.

TENTATIVE RULING #9: ABSENT OBJECTION, THE PETITION IS GRANTED AS REQUESTED.

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 621-6551 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07; SEE ALSO LEWIS V. SUPERIOR COURT, 19 CAL.4TH 1232, 1247 (1999).

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10. PC20190436 BAUGH v. GREENVIEW ASSETS, ET AL

(1) Motion to Compel
(2) Motion to Quash

On September 14, 2023, Defendants filed a Motion to Quash the Notice of Deposition of Kathryn Kaufman. On September 21, 2023, Plaintiffs filed a Motion to Compel the Deposition of Kathryn Kaufman. The court has reviewed all pleadings related to these motions, including Defendants' Opposition filed on December 6, 2023.

What is not in dispute is that Kathryn Kaufman already was deposed once in this matter. As Defendants note, Code of Civil Procedure (CCP) § 2025.610(a) states that, "[o]nce any party has taken the deposition of any natural person, including that of a party to the action, neither the party who gave, nor any other party who has been served with a deposition notice pursuant to Section 2025.240 may take a subsequent deposition of that deponent." CCP § 2025.610(b) continues that, "[n]otwithstanding subdivision (a), for good cause shown, the court may grant leave to take a subsequent deposition, and the parties, with the consent of any deponent who is not a party, may stipulate that a subsequent deposition be taken.."

Plaintiffs have not provided any evidence of, nor do they assert that, there was any stipulation with Defendants for an additional deposition. They also did not seek leave of court for the second deposition. Nonetheless, the parties all note that an Amended Cross-Complaint was filed which may provide good cause for a second deposition. Plaintiffs argue that Defendants are intentionally seeking to delay the deposition so that it cannot occur prior to the time of trial.

The court lacks authority to compel the deposition of Kathryn Kaufman based on the notice referenced in Plaintiffs' motion as no stipulation has been reach nor leave of court granted for this second deposition. Therefore, the court denies Plaintiffs' motion.

Likewise, for failure to comply with CCP § 2025.610(b), the court grants Defendants' motion to quash. The issue of sanctions as to both motions is continued to the time of trial.

The court is mindful that Plaintiffs may still seek to depose Kathryn Kaufman and that neither party appears to contest that there is good cause to do so at least as to any new allegations or other information contained within the Amended Cross-Complaint. For the sake of efficiency, the court on its own motion sets the issue of whether to grant leave to take a second deposition on the hearing already set in this matter on January 19, 2024 at 1:30 p.m. in Department 9.

TENTATIVE RULING #10: PLAINTIFFS' MOTION IS DENIED. DEFENDANTS' MOTION IS GRANTED. THE ISSUE OF SANCTIONS AS TO BOTH MOTIONS IS CONTINUED TO THE TIME OF TRIAL. THE COURT ON ITS OWN MOTION SETS THE ISSUE OF WHETHER TO GRANT LEAVE TO TAKE A

SECOND DEPOSITION ON THE HEARING ALREADY SET IN THIS MATTER ON JANUARY 19, 2024 AT 1:30 P.M. IN DEPARTMENT 9.

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 621-6551 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07; SEE ALSO LEWIS V. SUPERIOR COURT, 19 CAL.4TH 1232, 1247 (1999).

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11. 23CV1927 ROCKY TOP RENTALS LLC v. NEWREZ LLC, ET AL

Writ of Possession

Plaintiff declares that it rented a portable storage building for a period of 36 months to Noelle Elizabeth Miller on October 30, 2020. The storage building was delivered to 6345 Pollack Ave. in Pollack Pines. Miller breached the rental agreement on October 15, 2022 by failing to make rental payments. In February, 2023, Defendant NewRez allegedly acquired the property where the storage building is located, but has not allowed Plaintiff to access the property in order to repossess the storge building. Plaintiff applies for the issuance of a prejudgment writ of possession following hearing, pursuant to Code of Civil Procedure § 512.010, which provides:

> (a) Upon the filing of the complaint or at any time thereafter, the plaintiff may apply pursuant to this chapter for a writ of possession by filing a written application for the writ with the court in which the action is brought.
> (b) The application shall be executed under oath and shall include all of the following:
> > (1) A showing of the basis of the plaintiff's claim and that the plaintiff is entitled to possession of the property claimed. If the basis of the plaintiff's claim is a written instrument, a copy of the instrument shall be attached.
> > (2) A showing that the property is wrongfully detained by the defendant, of the manner in which the defendant came into possession of the property, and, according to the best knowledge, information, and belief of the plaintiff, of the reason for the detention.
> > (3) A particular description of the property and a statement of its value.
> > (4) A statement, according to the best knowledge, information, and belief of the plaintiff, of the location of the property and, if the property, or some part of it, is within a private place which may have to be entered to take possession, a showing that there is probable cause to believe that such property is located there.
> > (5) A statement that the property has not been taken for a tax, assessment, or fine, pursuant to a statute; or seized under an execution against the property of the plaintiff; or, if so seized, that it is by statute exempt from such seizure.
> (c) The requirements of subdivision (b) may be satisfied by one or more affidavits filed with the application.

Code of Civil Procedure § 512.060 provides that a writ of possession shall issue if the court finds that: (1) the plaintiff has established the probable validity of the plaintiff's claim to possession of the property, and (2) the undertaking requirements of Section 515.010 are satisfied.

Code of Civil Procedure § 512.030 requires that the defendant must be served with a copy of the Summons and Complaint, a notice of the application and hearing, and a copy of the

application and any affidavit supporting the application prior to the hearing on the writ of possession.

There is a notice of the application addressed to the Defendant in the court's file, but no proof of service. Notice of the hearing was sent out by the Clerk, but it did not include any pleadings. The proof of service of the Summons and Complaint on file with the court references Noelle Elizabeth Miller, not Defendant NewRez.

TENTATIVE RULING #11: THE MATTER IS CONTINUED TO FEBRUARY 2, 2024, TO ALLOW PLAINTIFF TO SERVE DEFENDANT IN COMPLIANCE WITH CODE OF CIVIL PROCEDURE § 512.030 PRIOR TO THE HEARING ON THE WRIT OF POSSESSION.

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 621-6551 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07; SEE ALSO LEWIS V. SUPERIOR COURT, 19 CAL.4TH 1232, 1247 (1999).

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12. PC20200539 BOWMAN v. GOLD COUNTRY HOMEOWNERS

Motion to Compel: Form Interrogatory and Requests for Admissions

This case alleges malicious prosecution and civil conspiracy, and was filed on October 21, 2020 by Jeff and Carrie Bowman ("Plaintiffs") against five individuals who were members of the board of directors of the Gold Country Homeowners Association ("HOA") at the time that the HOA brought a lawsuit against the Bowmans (El Dorado County Superior Court Case No. PC20170366) and lost.

Motion to Compel Further Responses to Interrogatories

On June 28, 2022, Plaintiffs propounded certain Form Interrogatories and Requests for Admissions, and filed this motion to compel further responses to those that were provided by Defendants on August 18, 2022.

Plaintiffs' counsel sent 'meet and confer' correspondence on November 2, 2022, and the parties negotiated an extension that extended through April, 2023, setting a new deadline for responses on May 5, 2023. On May 4, 2023, in a telephone conversation between counsel for the litigants, Defendant's counsel agreed to provide supplemental responses. However, the parties disagree on the substance of that telephone conversation, and Plaintiffs filed this motion on May 5, 2023. On August 10-11, 2023, Defendants provided supplemental responses that apparently partially address the issues in dispute. See Declaration of Douglas Roeca, dated August 18, 2023; Declaration of Kenneth Taylor, dated August 14, 2023.

Plaintiffs argue that Defendants' responses are still not sufficient.

At the hearing on this motion held on August 25, 2023, the court continued the matter and reserved the issue of sanctions, stating that it would make a determination on that issue depending on both parties' demonstrated compliance with discovery rules at the time of the continued hearing. The court adopting the Tentative Ruling, which stated:

> Code of Civil Procedure § 2016.040 requires a declaration to be filed in support of the motion that shows a "reasonable and good faith attempt at an informal resolution of each issue presented by the motion." While it is the moving party's obligation to provide this declaration, the non-moving party is under no lesser obligation to meet and confer is good faith. "Failing to confer in person, by telephone or by letter with an opposing party or attorney in a reasonable and good faith attempt to resolve informally any dispute concerning discovery" is sanctionable misuse of the discovery process by either party. Code of Civil Procedure §§ 2023.010(i); 2023.020. In this case, seven months passed between the Plaintiffs' meet and confer letter in November, 2022 and any subsequent, substantive communication between the parties, which consisted of a single telephone call one day before the negotiated deadline for filing this motion. Supplemental

responses were finally forthcoming from the Defendants one week before the deadline for the Plaintiffs to file a reply in time for the court's hearing of the matter.

A Separate Statement is required by California Rules of Court § 3.1345(c) to accompany this motion:

> A separate statement is a separate document filed and served with the discovery motion that provides all the information necessary to understand each discovery request and all the responses to it that are at issue. The separate statement must be full and complete so that no person is required to review any other document in order to determine the full request and the full response.

Due to the timing of Defendants' response to the discovery request in relation to the hearing on the issue, the Separate Statement that is on file with the court for this motion is now non-compliant. The motion is continued to allow the parties to comply with the statutory meet and confer requirements in a manner that demonstrates a "reasonable and good faith attempt at an informal resolution of each issue presented by the motion," and for Plaintiff to file an amended Separate Statement reflecting the current state of any remaining dispute as required by the California Rules of Court.

To date, more than four months after the prior hearing there has been no updated information filed with the court as to the parties' meet and confer efforts or an updated separate statement on the issues that remain to be determined following the supplemental response.

TENTATIVE RULING #12: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON FRIDAY, JANAURY 12, 2024, IN DEPARTMENT NINE.

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 621-6551 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07; SEE ALSO LEWIS V. SUPERIOR COURT, 19 CAL.4TH 1232, 1247 (1999).

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13. 22CV0690 MALAKHOV v. MARTINEZ

Motion for Summary Judgment

This is an action that arises from a contract for new home construction on real property purchased by Plaintiffs. Plaintiffs contracted with the seller, Greyson Creek, LLC for the construction of the home, UMF No. 3, and when the construction was not completed by the date specified in the contract, initiated this lawsuit against the Greyson Creek, LLC, the principals of Greyson Creek, LLC, and the real estate brokerage that represented the seller, All City Homes dba Side, Inc. Ninoroy Machado is the individual salesperson who was retained through All City Homes/Side, Inc. by the sellers to represent them in the sale of the real property to Plaintiffs. Declaration of Ninoroy Machado, dated October 6, 2023, ¶2; UMF No. 1. Machado represents that he never spoke directly to Plaintiffs, never made any verbal promises to Plaintiffs, and never made any representations to Plaintiffs about the construction contract entered into by Plaintiffs and 5059 Greyson Street, LLC. Declaration of Ninoroy Machado, ¶¶3-5. Neither Machado nor Side Inc., dba All City Homes are parties to the construction contract. UMF No. 4.

> [S]ummary judgment or summary adjudication is to be granted when there is no triable issue of material fact and the moving party is entitled to judgment as a matter of law." (*Mills v. U.S. Bank* (2008) 166 Cal.App.4th 871, 894–895, 83 Cal.Rptr.3d 146.) The "party moving for summary judgment bears an initial burden of production to make a prima facie showing of the nonexistence of any triable issue of material fact; if he carries his burden of production, he causes a shift, and the opposing party is then subjected to a burden of production of his own to make a prima facie showing of the existence of a triable issue of material fact." (*Aguilar v. Atlantic Richfield Co.* (2001) 25 Cal.4th 826, 861–862, 107 Cal.Rptr.2d 841, 24 P.3d 493.)
>
> "A defendant seeking summary judgment bears the initial burden of proving the cause of action has no merit by showing that one or more of its elements cannot be established or there is a complete defense to it.... [Citations.]" (*Cucuzza v. City of Santa Clara* (2002) 104 Cal.App.4th 1031, 1037, 128 Cal.Rptr.2d 660.)

Alvarez v. Seaside Transportation Servs. LLC, 13 Cal. App. 5th 635, 641–42, 221 Cal. Rptr. 3d 119, 124–25 (2017).

In this case, the court finds that there is no triable issue of material fact where the moving party is not a party to the contract that forms the basis for the Complaint and has no other legal relationship to the Plaintiffs. There is no opposition to the motion, which the court may consider a waiver of any objections and treat it as an admission that the motion or other application is meritorious. Local Rules of the El Dorado County Superior Court, Rule 7.10.02.C.

TENTATIVE RULING #13: DEFENDANT'S MOTION FOR SUMMARY JUDGMENT IS GRANTED.

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 621-6551 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07; SEE ALSO LEWIS V. SUPERIOR COURT, 19 CAL.4TH 1232, 1247 (1999).

NOTICE TO ALL PARTIES OF A REQUEST FOR ORAL ARGUMENT AND THE GROUNDS UPON WHICH ARGUMENT IS BEING REQUESTED MUST BE MADE BY TELEPHONE OR IN PERSON BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; EL DORADO COUNTY LOCAL RULE 8.05.07. PROOF OF SERVICE OF SAID NOTICE MUST BE FILED PRIOR TO OR AT THE HEARING.

LONG CAUSE HEARINGS MUST BE REQUESTED BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED AND THE PARTIES ARE TO PROVIDE THE COURT WITH THREE MUTUALLY AGREEABLE DATES ON FRIDAY AFTERNOONS AT 2:30 P.M. LONG CAUSE ORAL ARGUMENT REQUESTS WILL BE SET FOR HEARING ON ONE OF THE THREE MUTUALLY AGREEABLE DATES ON FRIDAY AFTERNOONS AT 2:30 P.M. THE COURT WILL ADVISE THE PARTIES OF THE LONG CAUSE HEARING DATE AND TIME BY 5:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. PARTIES MAY PERSONALLY APPEAR AT THE HEARING. IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.

14. 22CV1621 ALES v. JAGUAR LAND ROVER NORTH AMERICA, LLC

Motion to Compel: Requests for Production

This Song-Beverly Act case involves Plaintiffs' purchase of a used 2019 Land Rover Range Rover Velar vehicle in 2022. On October 9, 2023, Plaintiffs filed a Motion to Compel requesting an order compelling complete responses, without objection, to Plaintiffs' Request for Production, Set One ("RFP"), which was propounded on June 9, 2023.

Defendant provided responses on August 11, 2023, which Plaintiffs assert, as to RFP Nos. 11-3 and 16-26, are inadequate, not Code compliant and include a number of inapplicable objections. S*ee* Declaration of Sepehr Daghighian, dated October 6, 2023 ("Daghighian Declaration I"), Exhibit D. Plaintiffs sent meet and confer letters noting the alleged deficiencies in Defendant's responses on September 1 and September 11, 2023. *See* Daghighian Declaration, Exhibits E and F. These communications included a proposed stipulated protective order. Declaration of Sepehr Daghighian, dated November 22, 2023 ("Daghighian Declaration II"), Exhibit B. Defendant has not executed the proposed stipulated protective order or proposed any modifications to its provisions. Daghighian Declaration II, ¶4.

Plaintiffs assert that the responses provided by Defendant are boilerplate responses and inapplicable objections, and seek an Order striking Defendants' objections and compelling further responses within ten days.

The specific Requests for Production at issue in this motion are as follows:

RFP No. 11: All DOCUMENTS which evidence, describe, refer or relate to any CONTACT between YOU and Plaintiffs.

Response to RFP No. 11: Defendant states it cannot respond because Plaintiffs did not make a request for repurchase prior to filing the lawsuit. Defendant objects that RFP No. 11 is vague, overbroad, and is subject to objection based on attorney-client privilege/work product.

Findings:

1. The court agrees with Plaintiff that this response constitutes a *non sequitur*. Either there are documents reflecting contact between the Plaintiffs and Defendant or there are not.
2. A statement of inability to comply shall "affirm that a diligent search and a reasonable inquiry has been made in an effort to comply with that demand. This statement shall also specify whether the inability to comply is because the particular item or category has never existed, has been destroyed, has been lost, misplaced, or stolen, or has never been, or is no longer, in the possession, custody, or control of the responding party. The statement shall set forth the name and address of any natural person or organization known or believed by

that party to have possession, custody, or control of that item or category of item." Code of Civil Procedure § 2031.230.

3. The request is not vague or overbroad on its face, as it is limited to contact with Plantiffs.
4. "If an objection is based on a claim of privilege or a claim that the information sought is protected work product, the response shall provide sufficient factual information for other parties to evaluate the merits of that claim, including, if necessary, a privilege log." Code of Civil Procedure § 2031.240. If there are no responsive records that arguably might come within that privilege then Defendant should not raise that objection.

RFP No. 12: All DOCUMENTS which evidence, describe, refer or relate to any CONTACT with any PERSON, other than YOUR attorney, and relating or referring to Plaintiffs or the SUBJECT VEHICLE.

Response to RFP No. 12: Defendant provided repair records in its possession, while at the same time objecting that RFP No. 12 is vague, overbroad, and is subject to objection based on attorney-client privilege/work product.

Findings:

1. Defendant did provide responsive repair records, and Plaintiff does not indicate which responsive records have been withheld.
2. The request is not vague or overbroad on its face, as it is limited to records regarding Plaintiffs' vehicle.
3. "If an objection is based on a claim of privilege or a claim that the information sought is protected work product, the response shall provide sufficient factual information for other parties to evaluate the merits of that claim, including, if necessary, a privilege log." Code of Civil Procedure § 2031.240. If there are no responsive records that arguably might come within that privilege then Defendant should not raise that objection.

RFP No. 13: All DOCUMENTS which evidence, describe, refer or relate to written or recorded statements from any PERSON concerning the SUBJECT VEHICLE or Plaintiffs' complaints concerning the SUBJECT VEHICLE.

Response to RFP No. 13: Defendant provided repair orders in its possession, while at the same time objecting that RFP No. 13 is vague, ambiguous, overbroad, unduly burdensome and is subject to objection based on attorney-client privilege/work product.

Findings:

1. Defendant did provide responsive repair records, and Plaintiff does not indicate which responsive records have been withheld.
2. The request is not vague, ambiguous, or overbroad on its face, as it is limited to records regarding Plaintiffs' vehicle.

3. "The objection based upon burden must be sustained by evidence showing the quantum of work required, while to support an objection of oppression there must be some showing either of an intent to create an unreasonable burden or that the ultimate effect of the burden is incommensurate with the result sought." W. Pico Furniture Co. of Los Angeles v. Superior Ct. In & For Los Angeles Cnty., 56 Cal. 2d 407, 417 (1961). Defendant made an objection claiming responding to RFP No. 13 would be unduly burdensome but made no such showing.
4. "If an objection is based on a claim of privilege or a claim that the information sought is protected work product, the response shall provide sufficient factual information for other parties to evaluate the merits of that claim, including, if necessary, a privilege log." Code of Civil Procedure § 2031.240. If there are no responsive records that arguably might come within that privilege then Defendant should not raise that objection.

RFP No. 16: All of YOUR dealership warranty claims policy and procedure manual(s) from 2017 to the present.

Response to RFP No. 16: Defendant objects that RFP No. 16 is vague, "grossly overbroad", and not reasonably calculated to lead to the discovery of admissible evidence. Defendant also objects that the request seeks documents that are confidential, proprietary and/or commercially sensitive "without the application of an appropriate protective order."

Findings:

1. Warranty claims manuals are reasonably calculated to lead to the discovery of admissible evidence in a consumer warranty case under the Song-Beverly Act.
2. The request is not vague. If it is overbroad, Defendant has not given any factual explanation upon which the court could determine that the request exceeds a reasonable scope of inquiry.
3. Defendant objects to disclosing confidential, proprietary or commercially sensitive information "without the application of an appropriate protective order" even though it was presented with a proposed protective order which it never executed or attempted to negotiate.

RFP No. 17: All DOCUMENTS which evidence, describe, refer or relate to YOUR rules, policies, or procedures since 2015 concerning the issuance of refunds or provision of replacement vehicles to buyers in the State of California under the Song-Beverly Consumer Warranty Act.

Response to RFP No. 17: Defendant provided various documents in response to this request, while at the same time objecting that RFP No. 17 is vague, ambiguous, unduly burdensome, seeks documents that are not relevant, and to the extent that the request seeks documents that are subject to attorney-client privilege/work product or disclosure of

confidential, proprietary or commercially sensitive information "which can be produced only subject to prior entry of a protective order."

Findings:

1. Defendant did provide responsive repair records, and Plaintiff does not indicate which responsive records have been withheld.
2. "The objection based upon burden must be sustained by evidence showing the quantum of work required, while to support an objection of oppression there must be some showing either of an intent to create an unreasonable burden or that the ultimate effect of the burden is incommensurate with the result sought." W. Pico Furniture Co. of Los Angeles v. Superior Ct. In & For Los Angeles Cnty., 56 Cal. 2d 407, 417 (1961). Defendant made an objection claiming responding to RFP No. 13 would be unduly burdensome but made no such showing.
3. The request is not vague or ambiguous and is patently relevant to this Song-Beverly Consumer Warranty Act litigation.
4. "If an objection is based on a claim of privilege or a claim that the information sought is protected work product, the response shall provide sufficient factual information for other parties to evaluate the merits of that claim, including, if necessary, a privilege log." Code of Civil Procedure § 2031.240. If there are no responsive records that arguably might come within that privilege then Defendant should not raise that objection.
5. Defendant objects to disclosing confidential, proprietary or commercially sensitive information "which can be produced only subject to prior entry of a protective order" even though it was presented with a proposed protective order which it never executed or attempted to negotiate.

RFP No. 18: All DOCUMENTS which evidence, describe, refer or relate to procedures used by YOU for the handling of complaints by consumers regarding vehicles YOU manufactured or distributed to California, from 2017 to the present.

Response to RFP No. 18: Defendant provided various documents in response to this request, while at the same time objecting that RFP No. 18 calls for disclosure of materials subject to attorney-client and work product privileges, and confidential, proprietary or commercially sensitive information "without prior entry of a protective order."

Findings:

1. Defendant has provided responsive documents, and Plaintiff argues that the response is incomplete, but does not identify any categories of responsive records that have been withheld.
2. "If an objection is based on a claim of privilege or a claim that the information sought is protected work product, the response shall provide sufficient factual information for

other parties to evaluate the merits of that claim, including, if necessary, a privilege log." Code of Civil Procedure § 2031.240. If there are no responsive records that arguably might come within that privilege then Defendant should not raise that objection.

3. Defendant objects to disclosing confidential, proprietary or commercially sensitive information "which can be produced only subject to prior entry of a protective order" even though it was presented with a proposed protective order which it never executed or attempted to negotiate.

RFP No. 19: All DOCUMENTS issued by YOU or on YOUR behalf which evidence or describe policies, procedures, and/or instructions since 2017 that YOUR employees and agents should follow when evaluating a customer request for their money back or a replacement of a motor vehicle manufactured or distributed by YOU.

Response to RFP No. 19: Defendant provided various documents in response to this request, while at the same time objecting that RFP No. 19 is vague, grossly overbroad, unduly burdensome and calls for disclosure of materials subject to attorney-client and work product privileges, and confidential, proprietary or commercially sensitive information "without prior entry of an appropriate protective order."

Findings:

1. Defendant has provided responsive documents, and Plaintiff has not identified any categories of responsive records that have been withheld.
2. The request is not vague. If it is overbroad, Defendant has not given any factual explanation upon which the court could determine that the request exceeds a reasonable scope of inquiry.
3. "The objection based upon burden must be sustained by evidence showing the quantum of work required, while to support an objection of oppression there must be some showing either of an intent to create an unreasonable burden or that the ultimate effect of the burden is incommensurate with the result sought." W. Pico Furniture Co. of Los Angeles v. Superior Ct. In & For Los Angeles Cnty., 56 Cal. 2d 407, 417 (1961). Defendant made an objection claiming responding to RFP No. 19 would be unduly burdensome but made no such showing.
4. "If an objection is based on a claim of privilege or a claim that the information sought is protected work product, the response shall provide sufficient factual information for other parties to evaluate the merits of that claim, including, if necessary, a privilege log." Code of Civil Procedure § 2031.240. If there are no responsive records that arguably might come within that privilege then Defendant should not raise that objection.
5. Defendant objects to disclosing confidential, proprietary or commercially sensitive information "which can be produced only subject to prior entry of a protective order"

even though it was presented with a proposed protective order which it never executed or attempted to negotiate.

RFP No. 20: All DOCUMENTS evidencing, and/or relating to YOUR policies, procedures, or guidelines for determining whether a vehicle is eligible for a vehicle repurchase under the California lemon law, from 2017 to the present.

Response to RFP No. 20: Defendant provided various documents in response to this request, while at the same time objecting that RFP No. 20 is vague, grossly overbroad, unduly burdensome and calls for disclosure of materials subject to attorney-client and work product privileges, and confidential, proprietary or commercially sensitive information "without prior entry of a protective order."

Findings:

1. Defendant has provided responsive documents, and Plaintiff has not identified any categories of responsive records that have been withheld.
2. The request is not vague. If it is overbroad, Defendant has not given any factual explanation upon which the court could determine that the request exceeds a reasonable scope of inquiry.
3. "The objection based upon burden must be sustained by evidence showing the quantum of work required, while to support an objection of oppression there must be some showing either of an intent to create an unreasonable burden or that the ultimate effect of the burden is incommensurate with the result sought." W. Pico Furniture Co. of Los Angeles v. Superior Ct. In & For Los Angeles Cnty., 56 Cal. 2d 407, 417 (1961). Defendant made an objection claiming responding to RFP No. 20 would be unduly burdensome but made no such showing.
4. "If an objection is based on a claim of privilege or a claim that the information sought is protected work product, the response shall provide sufficient factual information for other parties to evaluate the merits of that claim, including, if necessary, a privilege log." Code of Civil Procedure § 2031.240. If there are no responsive records that arguably might come within that privilege then Defendant should not raise that objection.
5. Defendant objects to disclosing confidential, proprietary or commercially sensitive information "which can be produced only subject to prior entry of a protective order" even though it was presented with a proposed protective order which it never executed or attempted to negotiate.

RFP No. 21: All DOCUMENTS issued by YOU or on YOUR behalf which evidence or describe policies, procedures, and/or instructions since 2017 which YOUR authorized repair facilities should follow regarding California lemon law issues.

Response to RFP No. 21: Defendant provided various documents in response to this request, while at the same time objecting that RFP No. 21 is vague, grossly overbroad, unduly burdensome not reasonably calculated to lead to the discovery of admissible evidence and calls for disclosure of materials subject to attorney-client and work product privileges, and confidential, proprietary or commercially sensitive information "without prior entry of a protective order."

Findings:

1. Defendant has provided responsive documents, and Plaintiff has not identified any categories of responsive records that have been withheld.
2. The request is not vague. If it is overbroad, Defendant has not given any factual explanation upon which the court could determine that the request exceeds a reasonable scope of inquiry.
3. The request is reasonably calculated to lead to the discovery of admissible evidence in a Song-Beverly Act case.
4. "The objection based upon burden must be sustained by evidence showing the quantum of work required, while to support an objection of oppression there must be some showing either of an intent to create an unreasonable burden or that the ultimate effect of the burden is incommensurate with the result sought." W. Pico Furniture Co. of Los Angeles v. Superior Ct. In & For Los Angeles Cnty., 56 Cal. 2d 407, 417 (1961). Defendant made an objection claiming responding to RFP No. 21 would be unduly burdensome but made no such showing.
5. "If an objection is based on a claim of privilege or a claim that the information sought is protected work product, the response shall provide sufficient factual information for other parties to evaluate the merits of that claim, including, if necessary, a privilege log." Code of Civil Procedure § 2031.240. If there are no responsive records that arguably might come within that privilege then Defendant should not raise that objection.
6. Defendant objects to disclosing confidential, proprietary or commercially sensitive information "which can be produced only subject to prior entry of a protective order" even though it was presented with a proposed protective order which it never executed or attempted to negotiate.

RFP No. 22: All DOCUMENTS which evidence or describe YOUR call center processes relating to California lemon law requests.

Response to RFP No. 22: Defendant provided various documents in response to this request, while at the same time objecting that RFP No. 22 is vague, ambiguous, overbroad, unduly burdensome, seeks materials that are not relevant, and calls for disclosure of

confidential, proprietary or commercially sensitive information "without prior entry of a protective order."

Findings:

1. Defendant has provided responsive documents, and Plaintiff has not identified any categories of responsive records that have been withheld.
2. The request is not vague or ambiguous. If it is overbroad, Defendant has not given any factual explanation upon which the court could determine that the request exceeds a reasonable scope of inquiry.
3. The request is reasonably calculated to lead to the discovery of admissible evidence in a Song-Beverly Act case.
4. "The objection based upon burden must be sustained by evidence showing the quantum of work required, while to support an objection of oppression there must be some showing either of an intent to create an unreasonable burden or that the ultimate effect of the burden is incommensurate with the result sought." W. Pico Furniture Co. of Los Angeles v. Superior Ct. In & For Los Angeles Cnty., 56 Cal. 2d 407, 417 (1961). Defendant made an objection claiming responding to RFP No. 22 would be unduly burdensome but made no such showing.
5. Defendant objects to disclosing confidential, proprietary or commercially sensitive information "that can only be produced only subject to prior entry of a protective order" even though it was presented with a proposed protective order which it never executed or attempted to negotiate.

RFP No. 23: All DOCUMENTS evidencing any policies, procedures, or guidelines provided by YOU to any third party relating to compliance with the Song-Beverly Act from 2017 to present.

Response to RFP No. 23: Defendant provided various documents in response to this request, while at the same time objecting that RFP No. 23 is vague, overbroad, unduly burdensome, calls for disclosure of materials subject to attorney-client and work product privileges, and for disclosure of confidential, proprietary or commercially sensitive information "without prior entry of a protective order."

Findings:

1. Defendant has provided responsive documents, and Plaintiff has not identified any categories of responsive records that have been withheld.
2. The request is not vague. If it is overbroad, Defendant has not given any factual explanation upon which the court could determine that the request exceeds a reasonable scope of inquiry.

3. "The objection based upon burden must be sustained by evidence showing the quantum of work required, while to support an objection of oppression there must be some showing either of an intent to create an unreasonable burden or that the ultimate effect of the burden is incommensurate with the result sought." W. Pico Furniture Co. of Los Angeles v. Superior Ct. In & For Los Angeles Cnty., 56 Cal. 2d 407, 417 (1961). Defendant made an objection claiming responding to RFP No. 23 would be unduly burdensome but made no such showing.
4. Defendant objects to disclosing confidential, proprietary or commercially sensitive information "that can only be produced only subject to prior entry of a protective order" even though it was presented with a proposed protective order which it never executed or attempted to negotiate.

RFP No. 24: All DOCUMENTS which evidence, describe, refer or relate to all Technical Service Bulletins that involve any part, component, subcomponent, system, assembly or sub-assembly for which the SUBJECT VEHICLE was subject to one or more repair attempts as reflected in YOUR Warranty Claim Records, or in the repair orders produced during discovery in this case.

Response to RFP No. 24: Defendant responded that it is unable to respond to this request because no technical service bulletins applied to Plaintiff's vehicle during the period of Plaintiffs' ownership, while at the same time objecting that RFP No. 24 is vague, overbroad, unduly burdensome, "seeks documents not limited in scope to the SUBJECT VEHICLE and that are not relevant to the subject matter and not proportional to the needs of this case."

Findings:

1. Defendant has indicated that it is unable to comply because there are no responsive documents. Plaintiff has not identified any categories of responsive records that have been withheld.
2. The request is not vague.
3. Defendant's claim that is overbroad is at odds with its assertion that there are no responsive documents. Defendant claims that the request "seeks documents not limited in scope to the SUBJECT VEHICLE" even though the "subject vehicle" and its repair history are expressly referenced to define the scope of the request.
4. The repair history and documents related to Defendant's policies related to those repairs are relevant to the subject matter of this action.
5. It is disingenuous to claim that the request is burdensome while at the same time asserting that there are no responsive documents. "The objection based upon burden must be sustained by evidence showing the quantum of work required, while to support an objection of oppression there must be some showing either of an intent to create an unreasonable burden or that the ultimate effect of the burden is incommensurate with

the result sought." W. Pico Furniture Co. of Los Angeles v. Superior Ct. In & For Los Angeles Cnty., 56 Cal. 2d 407, 417 (1961). Defendant made an objection claiming responding to RFP No. 24 would be unduly burdensome but made no such showing.

RFP No. 25: All DOCUMENTS which evidence, refer or relate to all Recalls which have been issued for 2019 Land Rover Range Rover Velar vehicles that involve any part, component, subcomponent, system, assembly or sub-assembly for which the SUBJECT VEHICLE was subject to one or more repair attempts as reflected in YOUR Warranty Claim Records, or in the repair orders produced during discovery in this case.

Response to RFP No. 25: Defendant responded that it is unable to respond to this request because no technical service bulletins applied to Plaintiff's vehicle during the period of Plaintiffs' ownership, while at the same time objecting that RFP No. 25 is vague, overbroad, unduly burdensome, "seeks documents not limited in scope to the SUBJECT VEHICLE and that are not relevant to the subject matter and not proportional to the needs of this case."

Findings:

1. Defendant has indicated that it is unable to comply because there are no responsive documents. Plaintiff has not identified any categories of responsive records that have been withheld.
2. The request is not vague.
3. Defendant's claim that is overbroad is at odds with its assertion that there are no responsive documents. Defendant claims that the request "seeks documents not limited in scope to the SUBJECT VEHICLE" even though the "subject vehicle" and its repair history are expressly referenced to define the scope of the request.
4. The repair history and documents related to Defendant's policies related to those repairs are relevant to the subject matter of this action.
5. It is disingenuous to claim that the request is burdensome while at the same time asserting that there are no responsive documents. "The objection based upon burden must be sustained by evidence showing the quantum of work required, while to support an objection of oppression there must be some showing either of an intent to create an unreasonable burden or that the ultimate effect of the burden is incommensurate with the result sought." W. Pico Furniture Co. of Los Angeles v. Superior Ct. In & For Los Angeles Cnty., 56 Cal. 2d 407, 417 (1961). Defendant made an objection claiming responding to RFP No. 25 would be unduly burdensome but made no such showing.

RFP No. 26: All DOCUMENTS which evidence or describe efforts by YOU, from 2017 to the present, to comply with YOUR "affirmative duty to replace a vehicle or make restitution to the buyer if [YOU are] unable to repair the new vehicle after a reasonable number of repair attempts."

Response to RFP No. 26: Defendant responded that it is unable to respond to this request because no technical service bulletins applied to Plaintiff's vehicle during the period of Plaintiffs' ownership, while at the same time objecting that RFP No. 26 is vague, overbroad, unduly burdensome, "seeks documents not limited in scope to the SUBJECT VEHICLE and that are not relevant to the subject matter and not proportional to the needs of this case."

Findings: The request is vague and overbroad in that it is not limited in scope to matters related to Plaintiffs' vehicle, and it defines the scope of the request by reference to a legal conclusion (documents that "evidence or describe . . . YOUR affirmative duty").

Overall, the court finds that while Defendant produced some responsive materials and at least in one case articulated a sustainable objection, in general Defendant's objections are inapplicable and/or unsupported by any showing of justifiable failure to respond to the request. To the extent Defendant claims the requests are vague, ambiguous or overbroad, Defendant has evidenced no attempt to meet and confer to clarify or narrow the requests, not has Defendant provided the court with any factual support for these objections. To the extent that Defendant claims that the requested materials are commercially sensitive or proprietary, Defendant has failed to respond to a proposed protective order that would allow for disclosure of relevant discovery. To the extent that Defendant claims the protection of any privilege it has failed to make any showing as required by statute to justify those claims. To the extent Defendant claims the requests are burdensome, the Defendant has failed to make any showing that supports its assertion.

In the cases where the Defendant has provided at least some responsive documents and Plaintiffs argue that the production is incomplete, Plaintiff has not provided any information as to what information is missing from the response.

The court notes that there are additional hearings scheduled for February 2, and April 19, 2024 on additional motions to compel discovery in this case and hopes that the parties will make a genuine effort to meet and confer to narrow the unresolved issues to be addressed at those hearings in light of the court's rulings on the instant motion.

TENTATIVE RULING #14:

(1) WITH RESPECT TO REQUESTS FOR PRODUCTION NO. 26 DEFENDANT'S OBJECTIONS ARE SUSTAINED.

(2) WITH RESPECT TO REQUESTS FOR PRODUCTION NOS. 12, 13, AND 17-25 THE PARTIES ARE ORDERED TO MEET AND CONFER WITHIN TEN DAYS OF THIS ORDER TO IDENTIFY ANY ADDITIONAL RESPONSIVE MATERIALS THAT PLAINTIFF ASSERTS HAVE NOT BEEN PRODUCED AS PART OF THE INITIAL RESPONSE.

(3) WITH RESPECT TO REQUESTS FOR PRODUCTION NOS. 16-23 THE PARTIES ARE ORDERED TO MEET AND CONFER TO FINALIZE THE TERMS OF ANY PROTECTIVE ORDER THAT REQUIRE NEGOTIATION AND TO EXECUTE A STIPULATED PROTECTIVE ORDER WITHIN TEN DAYS OF THIS ORDER.

(4) DEFENDANT SHALL PROVIDE SUPPLEMENTAL RESPONSES TO REQUESTS FOR PRODUCTION NOS. 11-3 AND 16-25, WITHOUT OBJECTION, WITHIN TWENTY DAYS OF THIS ORDER.

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 621-6551 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07; SEE ALSO LEWIS V. SUPERIOR COURT, 19 CAL.4TH 1232, 1247 (1999).

NOTICE TO ALL PARTIES OF A REQUEST FOR ORAL ARGUMENT AND THE GROUNDS UPON WHICH ARGUMENT IS BEING REQUESTED MUST BE MADE BY TELEPHONE OR IN PERSON BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; EL DORADO COUNTY LOCAL RULE 8.05.07. PROOF OF SERVICE OF SAID NOTICE MUST BE FILED PRIOR TO OR AT THE HEARING.

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15. 23CV0515 CLAIM OF BRANDYN HERRERA

Claim Opposing Forfeiture

Claimant filed a Claim Opposing Forfeiture regarding $2,981 on April 11, 2023.

On May 22, 2023, the People of the State of California filed a Petition for Forfeiture pursuant to Health and Safety Code § 11469, et seq. regarding $2,981 that was seized from Claimant's person on February 2, 2023, and is currently in the possession of the El Dorado County District Attorney's Office.

At the hearing on May 26, 2023, the court found that no proof of service had been filed and there had been no meet and confer efforts and continued the hearing.

At the hearing of July 14, 2023, the matter was continued at the request of counsel for the State of California.

TENTATIVE RULING #15: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON FRIDAY, JANUARY 12, 2024, IN DEPARTMENT NINE.

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 621-6551 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07; SEE ALSO LEWIS V. SUPERIOR COURT, 19 CAL.4TH 1232, 1247 (1999).

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16. 23CV2001 WRIGHT v. EL DORADO COUNTY OFFICE OF EDUCATION

Compromise Minor's Claim

This is a petition to compromise a minor's claim. The Petition states the minor sustained physical injuries and emotional trauma in an incident involving a El Dorado County Office of Education employee. Petitioner requests the court authorize a compromise of the minor's claim against defendant/respondent in the gross amount of $100,000.

The petition states the minor incurred $565 in medical expenses anticipated to be reimbursed from the proceeds of the settlement. Copies of a bill substantiating payment of the claimed medical expenses are attached to the Petition as required by Local Rules of the El Dorado County Superior Court, Rule 7.10.12A.(6).

The minor's attorney requests attorney's fees in the amount of $25,000, which represents 25% of the gross settlement amount. The court uses a reasonable fee standard when approving and allowing the amount of attorney's fees payable from money or property paid or to be paid for the benefit of a minor or a person with a disability. California Rules of Court, Rule 7.955(a)(1).

At the January 5, 2024 hearing, the court issued a tentative ruling which stated that certain provisions of the court's local rules had not been following. Specifically, the Petition states that the minor has not fully recovered from the emotional trauma allegedly suffered, but there was no report concerning the minor's condition and prognosis of recovery attached to the Petition, as required by Local Rules of the El Dorado County Superior Court, Rule 7.10.12A.(3).

Also, the minor's attorney requests reimbursement for costs in the amount of $545, but there were no copies of bills substantiating the claimed costs attached to the petitions as required by Local Rules of the El Dorado County Superior Court, Rule 7.10.12A.(6).

Petitioner requests an order to deposit money into a special needs trust established under Probate Code § 3604 for the benefit of the minor, in the amount of $73,889.91.

The matter was continued to allow Petitioner to file required documentation as described herein. On January 9, 2024, the court received a declaration with information attached regarding the child's condition and prognosis and the attorney's costs. As such, the court finds that the requirements of the local rules have not been met.

The petition is approved.

TENTATIVE RULING #16: PETITION IS GRANTED.

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 621-6551 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07; SEE ALSO LEWIS V. SUPERIOR COURT, 19 CAL.4TH 1232, 1247 (1999).

NOTICE TO ALL PARTIES OF A REQUEST FOR ORAL ARGUMENT AND THE GROUNDS UPON WHICH ARGUMENT IS BEING REQUESTED MUST BE MADE BY TELEPHONE OR IN PERSON BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; EL DORADO COUNTY LOCAL RULE 8.05.07. PROOF OF SERVICE OF SAID NOTICE MUST BE FILED PRIOR TO OR AT THE HEARING.

LONG CAUSE HEARINGS MUST BE REQUESTED BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED AND THE PARTIES ARE TO PROVIDE THE COURT WITH THREE MUTUALLY AGREEABLE DATES ON FRIDAY AFTERNOONS AT 2:30 P.M. LONG CAUSE ORAL ARGUMENT REQUESTS WILL BE SET FOR HEARING ON ONE OF THE THREE MUTUALLY AGREEABLE DATES ON FRIDAY AFTERNOONS AT 2:30 P.M. THE COURT WILL ADVISE THE PARTIES OF THE LONG CAUSE HEARING DATE AND TIME BY 5:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. PARTIES MAY PERSONALLY APPEAR AT THE HEARING. IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.

17. PC20200368 PEOPLE OF THE STATE OF CALIFORNIA v. WILLIAM PAT HARRIS

Claim Opposing Forfeiture

On August 3, 2020 the People filed a petition for forfeiture of cash in the total amount of $285,347.90; such funds are currently in the hands of the El Dorado County District Attorney's Office; and the property became subject to forfeiture pursuant to Health and Safety Code, § 11470(f), because that money was a thing of value furnished or intended to be furnished by a person in exchange for a controlled substance, the proceeds was traceable to such an exchange, and the money was used or intended to be used to facilitate a violation of Health and Safety Code, § 11358. The People pray for judgment declaring that the money is forfeited to the State of California.

Claimant Harris filed a Judicial Council Form MC-200 claim opposing forfeiture in response to a notice of petition.

Proof of service of notice of the hearing was served and filed with the court on January 5, 2024.

TENTATIVE RULING #17: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON FRIDAY, JANUARY 12, 2024, IN DEPARTMENT NINE.

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 621-6551 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07; SEE ALSO LEWIS V. SUPERIOR COURT, 19 CAL.4TH 1232, 1247 (1999).

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PARTIES MAY PERSONALLY APPEAR AT THE HEARING. IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.