

Judge Benson – Law & Motion – Wednesday, November 29, 2023 @ 9:00 AM
TENTATIVE RULINGS

1. 23CV02578 In re: Sanders, Amber

EVENT: Change of Name (minor)

There is no proof of publication on file, nor is there a proof of service concerning the non-consenting parent as required by CCP § 1277. The Court will hear from Petitioner.

2. 23CV02650 In re: Hall, Deena Diane

EVENT: Change of Name (adult)

There is no proof of publication on file. Upon the filing of the proof of publication, the Court will sign the decree provided.

3. 23CV02751 Rocky Top Rentals, LLC v. Andres, et al.

EVENT: Application for Writ of Possession

The Court will hear from counsel regarding the status of service. There is no proof of service as to either the moving papers nor the Summons and Complaint.

4. 22CV02874 Chamberlin, Donna et al. v. Carr, Alyssa et al.

EVENT: Plaintiffs Donna and Ronald Chamberlin's Motion For Preference in Setting a Trial Date

There is no dispute as to the age of the Plaintiffs. Plaintiffs Donna and Ronald Chamberlin's Motion For Preference in Setting a Trial Date is GRANTED. The first day of trial is February 5, 2024 at 8:00 am in Dept 6, Courtroom 2. The Trial Readiness Conference is February 1, 2024 at 1:30 pm in Dept.6, Courtroom 2. The Mandatory Settlement Conference is January 31, 2024 at 1:30pm with Judge Tamara Mosbarger via Zoom.

The Case Management Conference scheduled for 10:30am is vacated.

Plaintiffs shall prepare the form of order.

5. 23CV00369 Yates, Chad v. Ellenberger, Jared

EVENT: Motion For Authorizing Sale of Real Property and Compelling Return of Equipment; And/Or For Preliminary Injunction

The Court will hear from counsel. Specifically, the Court will hear from defense counsel concerning the proposed stip and order and whether Defendant disputes the proposed payments to creditors as prescribed therein.

If there is no dispute concerning the identity of creditors and the corresponding balances owed, the Court sees no reason why the parties cannot sell the property and distribute the funds as prescribed with the supervision of counsel.

If there is no dispute concerning debts to creditors, the Court is inclined to continue this motion and require proof that all known creditors have been provided notice as required by Corporations Code Section 1805(c).

6-8. 22CV03060 DN v. Doe 1 et al.

EVENT: (1) Application to Appear Pro Hac Vice (Kevin M. Hastings)

(2) Application to Appear Pro Hac Vice (Darrell L. Cochran)

(3) Plaintiff's Unopposed Motion to Obtain In Camera Finding of Reasonable and Meritorious Cause for Filing of Action Against Doe 2

Both Pro Hac Vice Applications are GRANTED. Plaintiff shall prepare a form of order.

Plaintiff's Unopposed Motion to Obtain In Camera Finding of Reasonable and Meritorious Cause for Filing of Action Against Doe 2 is continued to December 27, 2023 at 9:00am.

CCP 340.1(h):

If certificates are required pursuant to subdivision (f), the attorney for the plaintiff shall execute a separate certificate of merit for each defendant named in the complaint. [Emphasis Added]

The certificate of merit lumps Does 2-5 into the same certificate. This is not permitted by the plain language of the statute. Plaintiff shall submit a certificate of merit from counsel as to Doe 2 only.

9. 22CV00013 Wood, Jennifer v. Hood, Ria

EVENT: Motion to Set Aside Default (Continued from 11/15/23)

Motion to Set Aside Default is DENIED. The motion is untimely pursuant to Code of Civil Procedure Section 473(b). Plaintiff shall prepare the form of order.