

Judge Benson – Law & Motion – Wednesday, August 6, 2025 @ 9:00 AM
TENTATIVE RULINGS

1. 20CV01781 Leland, Morrissey & Knowles, LLP v. Bailey, Catherine et al

EVENT: [Amended] Motion for Reconsideration of Court's Ruling Regarding Petition to Correct/Confirm Arbitration Award (Continued from 6/25/25)

Motion for Reconsideration of Court's Ruling Regarding Petition to Correct/Confirm Arbitration Award is DENIED.

The issue is whether an answer can also be deemed a “rejection of arbitration award and request for trial after arbitration” as provided in Business and Professions Code § 6204(b). The Court finds the answer filed by Ms. Bailey on April 22, 2024 also operates as a rejection of arbitration award and request for trial after arbitration.

The law respects form less than substance. (See Civil Code §3528, *Mave Enters. v. Travelers Indem. Co.* (2013) 219 Cal.App.4th 1408, 1424) The caption, title, or label of a pleading ... does not determine its nature or legal effect. (*Spotlight on Coastal Corruption v. Kinsey*, (2020) 57 Cal. App. 5th 874, 884) Thus, the fact the answer is not labelled as a “rejection of arbitration award and request for trial after arbitration”, or the fact that it does not use those precise words in the body of the pleading, is not dispositive. Rather, we look to the substance of the pleading.

The answer unambiguously states “Defendant Rejects Fee Arbitration Claim.” [Emphasis Added] Should Defendant have used the word “award” instead of “claim”? Probably, but this is form over substance. The answer was filed within the 30-day requirement of Business and Professions Code § 6204(b). The substance of the answer and the context in which it was filed leads to the reasonable interpretation that the answer constitutes a rejection of the arbitration award.

The remaining question is whether the answer adequately requests a trial de novo. Again, the fact that the answer does not explicitly request a trial de novo is not dispositive. The answer essentially performs two functions – it denies the allegations in the pleading, and it inherently seeks an adjudication of a dispute instead of conceding the matter and submitting to an uncontested judgment. The practical implication is the answering party is seeking a trial on the merits. The Court finds that the answer substantially complies with the requirements of Business and Professions Code § 6204(b).

Plaintiff notes that there is a Judicial Council form for the rejection of an award and request for trial after arbitration. However, that form is optional, not mandatory.

The Court will prepare the form of order.

2. 21CV03101 UHG I LLC v. Canada, Sarah

EVENT: Opposition to Claim of Exemption

The Court will conduct a hearing.

3. 21CV01592 Discover Bank v. Klune-Hickman, Alyse B

EVENT: Plaintiff's Motion for Judgment on the Pleadings

Plaintiff's Motion for Judgment on the Pleadings is GRANTED. The Court will sign the proposed judgment.

4. 24CV00068 Bailey, Donald v. Foster Jr, Lionel, MD et al.

EVENT: Plaintiff's Motion to Vacate Trial Date

Counsel is ordered to appear. The Court is inclined to grant the motion but would like to hear from counsel regarding the overall status of the case.

5. 24CV01007 Womack, Brett et al v. Williams, Daniel et al.

EVENT: Plaintiffs' Motion to Amend Complaint

Plaintiffs' Motion to Amend Complaint is DENIED WITHOUT PREJUDICE. As to Defendant Phillip Peebles the proof of service indicates the moving papers were served by mail on July 15, 2025, which is exactly 16 court days before the hearing. CCP § 1005 requires a minimum of 16 court days, plus an additional 5 calendar days if service is by mail. Thus, notice with respect to Mr. Peebles is at least 5 calendar days short.

As an aside, concerning Defendants Jared Potts and Daniel Williams, the Court notes Plaintiff has filed an “Application for Judgment by Default”. Ostensibly, the application suggests that because said Defendants have yet to appear, the Court should enter default against them. The inference being that it is the Court’s responsibility to monitor the file and enter default against non-appearing defendants. That is erroneous. It is Plaintiff/Plaintiff’s counsel’s obligation to submit the required paperwork in order to obtain an entry of default.

There is a mandatory Judicial Council form for the entry of default. (Form CIV-100) Until Plaintiff files that form, there simply will be no entry of default. Counsel is directed to use the mandatory Judicial Council form with respect to Defendants Jared Potts and Daniel Williams.

6. 24CV03021 Speer, Mark v, Quirarte, Mario Angel

EVENT: Plaintiffs’ Motion for Leave to File Tardy Expert Designation

Plaintiffs’ Motion for Leave to File Tardy Expert Designation is moot in light of the recent settlement.

7. 25CV01539 In re: Armstrong, Brittany

EVENT: Change of name (minor) (continued from 6/25/25)

The Court is in receipt of the proof of publication and will sign the decree provided.

8. **25CV01636 In re: Garcia, Jacob Ward**

EVENT: Change of name (adult)

The Court is in receipt of the proof of publication and will sign the decree provided.

9. **25CV01809 In re: Bicknell, Samuel Scott**

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.

10. **25CV02093 In re: Lopez, Christina Renee**

EVENT: Change of name (minor)

The Court will hear from Petitioner. There is no proof of service on file demonstrating the non-consenting parent was served a minimum of 30 days prior to the hearing.

11. **25CV02289 In re: Goodwin, Taylor Nicole**

EVENT: Change of name (adult)

The Court is in receipt of the proof of publication, but is awaiting the results of the background check.

12. 25CV02292 In re: Chavez, Sean Eric

EVENT: Change of name (adult)

The Court is in receipt of the proof of publication and will sign the decree provided.

13. 25CV02307 In re: Mundy, Anthony Edward

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.