

**TENTATIVE RULINGS**

To be heard by Judge Mosbarger

**1. 21CV02823 Smith, Shane v. Blakely, Connor et al.**

*EVENT:* Defendant Connor Blakely and Bru Brands Inc.'s Motion to Set Aside Entry of Default and Default Judgment (Continued from 4/5/23)

Defendant Connor Blakely and Bru Brands, Inc.'s Motion to Set Aside Entry of Default and Default Judgment is GRANTED.

Preliminarily, the Court declines ruling on Defendants' evidentiary objections. (No authority cited limiting the Court's determination of this particular motion to admissible evidence nor any authority requiring the Court to rule on evidentiary objections)

Even if Defendants received actual notice, "[N]o California appellate court has gone so far as to uphold a service of process solely on the ground the defendant received actual notice when there has been a complete failure to comply with the statutory requirements for service." (*Summers v. McClanahan* (2006) 140 Cal.App.4th 403, 414.

CCP § 415.20

(b) If a copy of the summons and complaint *cannot with reasonable diligence* be personally delivered to the person to be served, as specified in Section 416.60, 416.70, 416.80, or 416.90, a summons may be served by leaving a copy of the summons and complaint at the person's dwelling house, usual place of abode, usual place of business, or usual mailing address other than a United States Postal Service post office box, in the presence of a competent member of the household or a person apparently in charge of his or her office, place of business, or usual mailing address other than a United States Postal Service post office box, at least 18 years of age, who shall be informed of the contents thereof, and by thereafter mailing a copy of the summons and of the 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. Service of a summons *in this manner is deemed complete on the 10th day after the mailing.* [Emphasis Added]

Here, Plaintiff has failed to meet the requirements for substituted service by failing to inform the recipient of the contents and failing to mail a copy. As to the former, the only evidence the Court has is Mr. Hennessey's declaration. As to the later, the language of both subdivision (a) and (b) indicates the significance of mailing a copy to the address where served. It indicates service is not effective until mailing has occurred.

Perhaps more importantly, Plaintiff has made no showing of any attempts to personally serve Defendants prior to resorting to substitute service. It cannot be said that Plaintiff exercised

reasonably diligence in first attempting to personally serve Defendants. Consequently, in light of Plaintiff's failures in complying with CCP § 415.20(b), the motion is granted.

Defendants shall file responsive pleadings within 20 days and prepare a form of order consistent with this ruling.

**2. 22CV00916 Khan, Rukhsana v. Payne, Benjamin et al.**

*EVENT: Defendant Children's Hope Foster Family Agency's Motion to Compel Further Responses to Special Interrogatories, Set One, and Request for Sanctions*

Defendant Children's Hope Foster Family Agency's Motion to Compel Further Responses to Special Interrogatories, Set One, and Request for Sanctions is GRANTED in PART and DENIED in PART. The motion is GRANTED as to Special Interrogatories nos. 5, 35, 37. Plaintiff has failed to substantiate her objections to those requests. The objections are clearly without merit. Additionally, the responses are evasive and incomplete as they provide conclusions, not facts. If Plaintiff currently has no facts, she must so state.

As to Form Interrogatory 204.46, the motion is DENIED for failure to comply with CRC 3.1345.

Sanctions are awarded in favor of Defendant in the amount of \$1,845.00 against Plaintiff and Plaintiff's counsel payable within 20 days. Plaintiff shall provide further responses to Special Interrogatory nos. 5, 35, and 37 within 20 days.

Defendant shall prepare and submit a form of order consistent with this ruling within 2 weeks.

**3. 23CV00358 In re: Brown, Gary Weston**

*EVENT: Change of Name (Adult)*

The Court is in receipt of the proof of publication has signed the decree provided. No appearance is necessary.