

**Judge Benson – Law & Motion – Wednesday, May 17, 2023 @ 9:00 AM**  
**TENTATIVE RULINGS**  
**Heard by Judge Mosbarger**

**1.     22CV00878 Fitzpatrick, Mark, Sr. v. Nissan North America, Inc.**

*EVENT: Defendant Nissan North America Inc.'s Motion to Compel Arbitration and Stay Proceedings*

The Court is in receipt of Defendant's Request to Withdraw and Vacate Defendant's Motion to Compel Arbitration. The motion is hereby vacated.

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

*EVENT: Defendant Children's Hope Foster Family Agency's Demurrer to Plaintiff's Second Amended Complaint*

On the Court's motion, the demurrer is continued to June 14th, 2023 at 9:00 AM. The Court is granting Defendant's Request for Judicial Notice that was filed concurrently with the reply papers. In light of that decision, the Court is giving Plaintiff the opportunity to file a supplemental brief in response. The Court is specifically interested in how the Second Amended Complaint is affected by Plaintiff's response to Request for Admissions.

Plaintiff's supplemental brief is due no later than May 24, 2023. Any response by Defendant is due no later than June 1, 2023.

**3-4. 22CV02908 Lizardo, Brenda G v. FCA US, LLC et al.**

*EVENT: (1) Defendant FCA US LLC's Motion to Compel Arbitration and Stay Action*

*(2) Defendant Chuck Patterson, Inc. D/B/A Chuck Patterson Autoworld Erroneously Sued as Chuck Patterson's Motion to Compel Arbitration and Stay Action*

Defendant FCA US LLC's Motion to Compel Arbitration and Stay Action is GRANTED. The Court will sign the proposed order. The Case Management Conference currently scheduled for June 17, 2023 is continued to December 20, 2023 at 10:30am.

Defendant Chuck Patterson, Inc. D/B/A Chuck Patterson Autoworld Erroneously Sued as Chuck Patterson's Motion to Compel Arbitration and Stay Action is moot in light of the dismissal.

The Court finds that Defendant FCA US LLC is entitled to compel arbitration under equitable estoppel grounds, pursuant to the Third District Court of Appeal decision *Felisilda v. FCA US LLC* (2020) 53 Cal.App.5th 486.

**5. 23MH00095 County of Butte v. Rayburn, Jessie**

*EVENT: Petition for Judicial Determination re: Return of Firearms*

Pursuant to Welfare and Institutions Code § 8102(g), the Court will sign the proposed order for default as no responsive papers have been filed.

**6. 21CV01932 Gonzalez, Veronica v. Sierra Health and Wellness Centers, LLC**

*EVENT: Plaintiff's Motion for Preliminary Approval of Class Action Settlement (Continued from 4/26)*

At the April 26 hearing the Court noted there was no evidence that the settlement was served on the LWDA as required by Labor Code Section 2699(l)(2). In reviewing the file, it appears this issue has yet to be addressed. The Court will hear from counsel. If a proof of service is provided, the motion will be granted.

**7. 22CV02975 LL Jane Doe DJ v. Doe 1 et al.**

*EVENT: Motion for an In Camera Review and Order to Seal and Keep Confidential All Certificates of Merit; Approving Certificates of Merit; and Granting Permission to Serve The Complaint on Defendants (Continued from 3/15/23, 4/5/23, and 4/26/23)*

Motion for an In Camera Review and Order to Seal and Keep Confidential All Certificates of Merit; Approving Certificates of Merit; and Granting Permission to Serve the Complaint on Defendants is GRANTED. The Court will sign the proposed order striking the phrase "ex parte" from the first sentence on page 2.

**8. 23CV00600 In re: Melton, Alex**

*EVENT: Change of name (minor) (Continued from 5/3/21)*

There is no proof of publication on file. The Court will hear from Petitioner.

9. **19CV02574 Najolia, Miriam v. Chavez, Michelle et al.**

*EVENT: Motion to be Relieved as Counsel (Continued from 4/12/23 and 5/10/23)*

Motion to be Relieved as Counsel is GRANTED. The Court has signed the Proposed Order. No appearance required.