

Judge Mosbarger – Law & Motion – Wednesday, June 11, 2025 @ 9:00 AM
TENTATIVE RULINGS

1. 23CV01288 WOLFF, LINDA V. OPTION ONE MORTGAGE CORPORATION, ET AL

EVENT: Motion to be Relieved as Counsel

The Motion to be Relieved as Counsel is granted, effective upon the filing of the proof of service of the signed order upon the client. Additionally, the Court continues the Case Management Conference set for June 25, 2025 to August 20, 2025 at 10:30 a.m. The Court will sign the form of order submitted by counsel with modification to Paragraph 7 to indicate that the next scheduled hearing is a Case Management Conference on August 20, 2025 at 10:30 a.m.

2. 24CV04149 YANG, KOUA V. VANG, CHI ET AL

EVENT: Hearing re: Request for Entry of Judgment to Quiet Title

The Court finds that Plaintiff must strictly comply with the Quiet Title Act's procedural requirements [See *Code of Civil Procedure* §§761.010, et seq.], including recording a lis pendens, serving unknown defendants by publication, and properly naming and serving the County of Butte and/or City of Oroville. These steps ensure that the judgment is enforceable against all potential claimants, including unknown parties, and provides the Plaintiff with clear and marketable title to the property. Here, Plaintiff has failed to meet these procedural prerequisites, and therefore the requested relief is not appropriate or authorized. The request to entry judgment to quiet title is denied. The Court sets this matter for a Case Management Conference on September 10, 2025 at 10:30 a.m.

3. 25CV00373 PRESLEY, LINDA D V. PRESLEY, MICHAEL A

EVENT: Application for Interlocutory Judgment Approving Partition by Sale of Real Property and Appointment of Referee

The Application for Interlocutory Judgment Approving Partition by Sale of Real Property and Appointment of Referee is granted, and the Court will sign the proposed Interlocutory Judgment submitted by counsel. The Court vacates the Case Management Conference on July 30, 2025 and sets this matter for a Review Hearing on December 10, 2025 at 10:30 a.m. for status of sale and final judgment.

4. 25CV00477 RESTANI, VICTORIA ET AL V. ARBOR POST ACUTE, LLC ET AL

EVENT: Petition to Compel Arbitration by Defendants Arbor Post Acute, LLC dba Arbor Post Acute, Providence Group, Inc., and Providence Administrative Consulting Services, Inc.

Defendants Arbor Post Acute, LLC dba Arbor Post Acute; Providence Group, Inc.; and Providence Administrative Consulting Services, Inc.'s (collectively "Defendants" herein) blanket objections to the Declarations of Victoria Restani and Patricia Baldisseri based on hearsay are overruled. The party seeking to compel arbitration bears the burden of proving by a preponderance of the evidence the existence of the arbitration agreement

and that the dispute is covered by the agreement. *Cruise v. Kroger Co.* (2015) 233 Cal.App.4th 390, 396-397, 399-400. The Court finds that Defendants have failed to satisfy this burden. Specifically, Defendants have failed to show that the Arbitration Agreement was adequately explained to Decedent as required to support a finding that there was a meeting of the minds. The evidence presented by Plaintiffs establishes that the time that elapsed between Decedent “viewing” the Agreement, reading it, having it explained to him, understanding it, and signing the four-page Agreement was 30 seconds, which the Court agrees was not sufficient time to indicate a valid meeting of the minds, especially considering the cognitively impairment of Decedent at the time. [See Declaration of Deena Zacharin at ¶5, Ex. 4, p. 9; Victoria Decl., ¶2-9; Patricia Decl., ¶3-6.] The Motion is denied. Counsel for the Plaintiffs shall submit a form of order consistent with this ruling within two weeks.

5. 25CV01669 CONNELL, ZACKARY V. CRAFT, SHEILA ET AL

EVENT: Motion for Limited Gag Order

The issuance of a “gag order” is subject to strict judicial scrutiny due to its nature as a prior restraint on speech, which is disfavored and presumptively invalid. The following requirements must be met for a gag order to be constitutional: (1) Clear and Present Danger or Serious and Imminent Threat; (2) Narrowly Tailored; and (3) No Less Restrictive Alternatives. The burden of proof lies with the moving party to demonstrate compliance with the three-pronged test. *Steiner v. Superior Court* (2013) 220 Cal.App.4th 1479, *Maggi v. Superior Court* (2004) 119 Cal.App.4th 1218, *Hurvitz v. Hoefflin* (2000) 84 Cal.App.4th 1232. The Court finds that Plaintiff has failed to satisfy his burden and the request for a “gag order” is denied.

The Court also notes that Plaintiff seeks relief pursuant to CCP §§526-527. In weighing the factors to determine whether to issue a preliminary injunction, Courts typically engage in a two-part analysis that evaluates: (1) whether the party is likely to prevail on the merits; and (2) a comparison of the harm suffered by the party if the injunction is not issued compared to the harm suffered to the defendant if it is. *IT Corp v. Imperial* (1983) 35 Cal.3d 63, 69-70; see also *Smith v. Adventist Health System/West* (2010) 182 Cal.App.4th 729, 749. Here, the Court finds that while Plaintiff has established a reasonable probability of prevailing on his claims, the balance of harm weighs in favor of Defendants. See, United States Constitution and Article I, Section 2(a). Therefore, Plaintiff’s request for preliminary injunction is likewise denied.