

Judge Mosbarger – Law & Motion – Wednesday, June 25, 2025 @ 9:00 AM
TENTATIVE RULINGS

1-2. 20CV00578 HOLMAN, RYAN V. COUNTY OF BUTTE ET AL

EVENTS: (1) Plaintiff's Motion for Change of Venue

*(2) Case Management Conference *Special Set*

Plaintiff's Motion for Change of Venue is denied.

Defendant is correct that the burden is on the moving party regardless if that is plaintiff or defendant. The published decisions cited involved a defendant as the moving party, but the primary principle is the burden is on the moving party. This is consistent with the general rule under CCP § 395(a) which provides the proper court is where the defendant resides. Because the current venue is where Defendants reside, it stands to reason Plaintiff, in seeking a different venue, bears the burden of persuasion.

The convenience of expert witnesses who have no personal knowledge is not considered. *Wrin v. Ohlandt* (1931) 213 Cal. 158, 160. Most of the out of area witnesses identified by Plaintiff are experts, consequently, their convenience is not considered for purposes of CCP §397. Conversely, Defendant has identified several percipient witnesses who reside in Butte County. On balance, the convenience of percipient and lay witnesses under CCP §397(c) favors Butte County. (Note: It is well settled that the convenience of the parties is not a factor, see *Wrin supra*, at p. 160)

Regarding CCP §397(b), Plaintiff has failed to meet his burden demonstrating an impartial jury cannot be procured in Butte County.

As to CCP §397(d), this subdivision necessarily requires disqualification of all Judges in the County. Here, only one bench officer has been disqualified.

Defendant shall prepare and submit the form of order.

The Court will conduct a Case Management Conference, and the parties are to appear. However, this is not an invitation to present oral argument in regard to the change of venue motion. If the parties wish to argue the tentative ruling, they must comply with Butte County Local Rule 2.9 and California Rules of Court Rule 3.1308(a)(1). In regard to the Case Management Conference, the Court will hear from parties as to whether they are ready to set the matter for trial, or if they wish to set the matter out for a further Case Management Conference given Defendant's possible petition for review to the California Supreme Court.

3. 21CV02398 ACOSTA, RUBI ET AL V. OROVILLE HOSPITAL ET AL

EVENT: Motion to File a First Amended Complaint to add a Nunc Pro Tunc Claim for Punitive Damages

Plaintiffs' Request for Judicial Notice is granted. The timing of a motion to amend to add punitive damages depends on the cause of action underlying the punitive damages allegations. If it is a cause of action arising out of professional negligence of a healthcare provider, no claim for punitive damages shall be included in a complaint unless the Court

enters an order permitting it, and such a motion must be filed within two years after the complaint or initial pleading is filed and not less than nine months before the date the matter is first set for trial. CCP §425.13. Here, the filing of the instant Motion for Leave to Amend on June 4, 2025 is well beyond two years from September 23, 2021, the date Plaintiffs filed their Complaint. In fact, the time between the Complaint being filed and the filing of the instant Motion is approximately 3 years and 8 months. Additionally, trial is currently set to commence in *less than* 9 months as the jury trial is set to begin on February 9, 2026 (8 months and 5 days after the Motion was filed. The Motion is untimely and is denied.

4. 23CV01288 WOLFF, LINDA V. OPTION ONE MORTGAGE CORPORATION, ET AL

*EVENT: Case Management Conferee *Special Set*

The Case Management Conference is continued at Plaintiff's request to October 29, 2025 at 10:30 a.m. No appearances are required at the hearing on June 25, 2025.

5-6. 23CV02211 HOWELL, GREG V. FORD MOTOR COMPANY ET AL

EVENTS: (1) Defendant Ford Motor Company's Motion to Compel Plaintiff to Produce the Subject Vehicle for Inspection

(2) Defendant Ford Motor Company's Motion to Compel Deposition of Plaintiff Greg Howell

Pursuant to the parties' agreement, the deposition of Plaintiff shall take place on July 10, 2025, and the vehicle inspection shall take place on July 29, 2025 at Wittmeier Ford located at 2288 Forest Avenue, Chico, CA 95928. Counsel for the Defendant shall submit a form of order confirming the aforementioned dates.

7. 24CV03135 ENDICOTT TRUCKING, INC V. COLEMAN ENVIRONMENTAL ENGINEERING, INC ET AL

EVENT: Defendant Coleman Environmental Engineering, Inc. and Jacob Morrow's Demurrer to Second Amended Complaint

The Court finds that Plaintiff has sufficiently pled a cause of action for Breach of Contract [see Second Amended Complaint at ¶¶10-13], and the Demurrer is overruled as to the First Cause of Action. Additionally, to the extent that the Defendant demurs to the Second Cause of Action for Account Stated/Services Rendered on the basis that Plaintiff has failed to allege the existence of a contract or account between Plaintiff and Defendants and is not seeking to improperly re-litigate matters on which this Court has previously ruled, the Demurrer is likewise overruled.

8-9. 24CV04136 WILSON, BARBARA V. SHOAIB, BARI ET AL

EVENTS: (1) Plaintiff Barbara Wilson's Motion for Trial Preference in Setting Trial Date

*(2) Case Management Conference *Special Set*

The Court finds that the Plaintiff has met her burden under *Code of Civil Procedure* §36(a) for trial preference showing that the health of Plaintiff is such that preference is necessary to prevent prejudicing a party's interest in the litigation, and that the interests of justice would be served in the granting of such request. The Motion is GRANTED.

The Court sets the following dates: Mandatory Settlement Conference with Judge Deems on September 22, 2025 at 10:00 a.m.; Trial Readiness Conference on October 16, 2025 at 1:30 p.m.; and a Jury Trial (with a five day estimate) on October 20, 2025 at 8:00 a.m. The Court will sign the form of order submitted by counsel.

10. 25MH00081 PETITION OF: BULLIS, JACOB TIMOTHY DAYTON

EVENT: Hearing for Relief from Firearms Prohibition

The Court will conduct a hearing.