

**Judge Mosbarger – Law & Motion – Wednesday, July 23, 2025 @ 9:00 AM
TENTATIVE RULINGS**

1. 22CV020002 PAR ELECTRICAL CONTRACTORS, LLC V. KAUR, DAVINDER

EVENT: Plaintiff's Motion to Release Bond and Return Collateral

The Motion is unopposed and is granted. Counsel for the Plaintiff shall submit a form of order within two weeks.

2. 22CV02187 A, C V. COUNTY OF BUTTE

EVENT: Defendant County of Butte's Motion for Summary Judgment, or in the Alternative, Summary Adjudication

Defendant County of Butte's ("Defendant" herein) Request for Judicial Notice is granted. Defendant's Objections to Evidence are overruled.

In regard to the issues raised in the Motion for Summary Adjudication, that Motion is granted in part and denied in part, and the Court finds as follows:

There exists a triable issue of material fact as to whether Defendant breached a mandatory duty to Plaintiff under *Welfare & Institutions Code* §328, regarding an investigation of Plaintiff's reports of sexual abuse. The MSA is denied as to Issue Two [The County Did Not Breach WIC Section 328]; Issue Three [The County is Immune From Liability for any Alleged Negligent Investigation of Plaintiff's Abuse Allegations]; Issue Seven [The County did not Violation *WIC* §16504]; and Issue Eight [The County is Immune From Liability for any Alleged Negligent Assessment Performed Under *WIC* §16504].

The Court agrees with the distinction made by Plaintiff between placement of a child in foster care and the ministerial acts of county social workers implementing that decision, and a social worker's decisions regarding investigating and taking other corrective action in response to a foster parent's alleged sexual abuse of a foster child. The Court does not find Defendant's position or interpretation of the relevant case law compelling to broaden of the scope of the immunity to "all decisions made in the course of foster care placement." The MSA is denied as to Issue Four [The County is Immune From Liability for any Alleged Place of Plaintiff in the Loseth Home].

Welfare & Institutions Code §16501(f) was not in effect at the time of the alleged abuse, which is not disputed by the Plaintiff. Therefore, *Welfare & Institutions Code* §16501(f) did not and could not impose a mandatory duty on Defendant nor any of its employees during the relevant time period. Plaintiff's first cause of action therefore fails to the extent it relies on this provision and the MSA is granted as to Issue Five [The County did not owe Plaintiff a Duty Under *WIC* §16501(f) Because that Section did not Exist During the Relevant Time Period].

Welfare and Institutions Code §16501 did exist, but during the relevant time period, it did not contain language imposing a duty on Defendant. Rather, *Welfare and*

Institutions Code §16501 merely defined the term “child welfare services,” and required counties to “provide child welfare services *as needed* pursuant to an approved service plan and in accordance with regulations promulgated by the department . . .” The Court finds that this provision did not impose a mandatory duty on Defendant within the meaning of *Government Code* §815.6, which “requires that the enactment at issue be *obligatory, rather than merely discretionary or permissive*, in its directions to the public entity,” emphasis added]. The MSA is granted as to Issue Six [The County did not owe Plaintiff a Mandatory Duty Under *WIC* §16501].

In regard to *Health and Safety Code* §1522, *Penal Code* §11165.7, CDSS Regulation No. 31-401, the Court finds that Defendant met its initial burden of showing that the cause of action lacks merit (because one or more elements cannot be established or there is a complete defense). CCP §437c(o); See also, *Aguilar v. Atlantic Richfield Co.* (2001) 25 Cal.4th 826, 861. The burden then shifted to the Plaintiff to show that a triable issue of one or more material facts exists as to the cause or defense. CCP §437c(p)(2). Here, Plaintiff failed to address the arguments raised by Defendant in regard to *Health and Safety Code* §1522, *Penal Code* §11165.7, CDSS Regulation No. 31-401, and the MSA is therefore granted as to Issue Nine [The County did not owe Plaintiff a Duty Under *H&S Code* §1522]; Issue Ten [The County did not owe Plaintiff a Duty Under *Penal Code* §11165.7]; and Issue Fourteen [The County did not Violate CDSS Regulation No. 31-401].

Penal Code §11165.9 was not in effect at the time of the alleged abuse, which is not disputed by the Plaintiff. Therefore, *Penal Code* §11165.9 did not and could not impose a mandatory duty on Defendant nor any of its employees during the relevant time period. Plaintiff’s first cause of action therefore fails to the extent it relies on this provision and the MSA is granted as to Issue Eleven [The County did not owe Plaintiff a Duty Under *Penal Code* §11165.9].

There exists a triable issue of material fact as to whether Defendant breached a duty under *Penal Code* §11166 and the MSA is denied as to Issue Twelve [The County is Entitled to Discretionary Immunity for any Alleged Failure to Report Under *Penal Code* §11116] and Issue Fifteen [The County did not Violate CDSS Regulation No. 31-501].

There exists a triable issue of material fact as to whether Defendant breached its duty under CDSS Regulation No. 31-320] to monitor Plaintiff’s growth and development while in placement, irrespective of the monthly face-to-face visits. The MSA is denied as to Issue Thirteen [The County did not Violate CDSS Regulation No. 31-320].

A triable issue of material fact exists as to whether Defendant owed Plaintiff a duty with respect to her time in the Loseth Home – see UMF Nos. 8, 12, 14, 15, 16, 17, 18, 19, 20, 21, 26. The MSA is denied as to Issue Sixteen [The County did not owe Plaintiff a Duty With Respect to her Time in the Loseth Home Because it did not Cause her to be Placed in the Loseth Home].

In regard to the Motion for Summary Judgment on the First Cause of Action for Negligence, the Court finds a triable issue of material fact as to whether Defendant

breached its duties under *Welfare & Institutions Code* §§328, 16504; *Penal Code* §11166; and CDSS Regulation Nos. 31-320 and 31-501, as discussed in detail above, and as such, the Motion for Summary Judgment is denied. Counsel for the Defendant shall prepare and submit a form of order consistent with this ruling within two weeks.

3. 24CV04221 CORTINA HULLING & SHELLING, LLC V. INTERNATIONAL FARM MANAGEMENT, LLC

EVENT: Order of Examination (Rocelia Camerana, as Manager/Member of Judgment Debtor International Farm Management LLC)

The Court will swear in the Judgment Debtor for examination.

4. 25MH00508 CHICO POLICE DEPARTMENT V. WEBER, KRISTOPHER

EVENT: Petition for Default

The Petition for Default is granted. Counsel shall submit a form of order within two weeks.

5. 25CV01733 SAETEUN, LIEW ET AL V. CHING, BRAIN TROY, MD ET AL

EVENT: Plaintiffs' Motion for Preference

The Proof of Service indicates that the Motion was served electronically and by U.S. Mail on June 27, 2025, which is only 16 Court days' notice and 1 additional Court day, or 3 additional calendar days' notice. Pursuant to Code of Civil Procedure §§1005(b) and 1010.6(3)(B), an additional 2 Court days' notice is required for electronic service or an additional 5 calendar days' notice for service by U.S. Mail. In either instance, notice here is insufficient, and the Motion is denied.

Additionally, the Proof of Service indicates that service was made on a law firm – Zimmerman Law, PC – but there is no evidence in the Court's file that any of the Defendants are currently represented by counsel as there has been no appearance and none of the Summons were served on counsel. The communications between counsel are insufficient as there has been no appearance by counsel for any named Defendants in this action. From what is available to the Court, the Court concludes that each of the Defendants should have been served a copy of the instant Motion. Notice is insufficient in that regard as well, and the Motion is also denied on that basis.

However, even if the Court were to consider the merits of the Motion, the Court finds that the Plaintiffs have failed to carry their burden under Code of Civil Procedure §36(a) for trial preference there being no showing that the health of Plaintiff Liew Saeteun is such that preference is necessary to prevent prejudicing a party's interest in the litigation, nor how the interests of justice would be served in the granting of such request. The Motion is denied.