

Judge Mosbarger – Law & Motion – Wednesday, July 8, 2026 @ 9:00 AM
TENTATIVE RULINGS

1. 25CV03666 DERNER, KIMBERLY LOU V. HOWIE, LARRY KENT

EVENT: Motion to Set Aside Void Entry of Default and Request for Sanctions

Defendant Larry Kent Howie's ("Defendant" herein) Requests for Judicial Notice are granted. The Court finds that Defendant has satisfied the statutory requirements for relief under the mandatory relief provisions of *Code of Civil Procedure* §473(d) and the Motion to Set Aside Void Entry of Default is granted. The Default entered on May 22, 2026 is set aside and Defendant shall file and serve his responsive pleading within 10 days' notice of this ruling.

In regard to sanctions, *Code of Civil Procedure* §128.7(c)(1) states:

"A motion for sanctions under this section shall be made separately from other motions or requests and shall describe the specific conduct alleged to violate subdivision (b). Notice of motion shall be served as provided in Section 1010, but shall not be filed with or presented to the court unless, within 21 days after service of the motion, or any other period as the court may prescribe, the challenged paper, claim, defense, contention, allegation, or denial is not withdrawn or appropriately corrected. ..."

Here, there is no indication that the notice requirement was satisfied. Based on the Declaration of counsel, it appears that the first notice of intent to request sanctions (via telephone) was on June 1, 2026, and the Motion was thereafter filed on June 8, 2026, not allowing for the 21 days as required under subsection (c)(1) above. Defendant's request for sanctions under *Code of Civil Procedure* §128.7 is therefore denied

In relation the sanctions request under *Code of Civil Procedure* §128.5, the Court finds that such sanctions are not warranted here and that request is denied. Counsel for the Defendant shall prepare and submit a form of order consistent with this ruling within two weeks.

2. 25CV04206 DODDS, DORIAN V. CAIN, ROGER D ET AL

EVENT: Plaintiff's Counsel's Motion to be Relieved as Counsel

Notice does not comply with California Rules of Court Rule 3.1362(d) [requiring service on the client *and all other parties*]. The proof of service filed July 6, 2026 shows service by mail on the client with sufficient confirmation of the client's address; however, there is no evidence that the Motion was served on counsel for the Defendants as required by the Rules of Court. The matter is continued to July 29, 2026 at 9:00 a.m. and counsel is to timely file a proof of service evidencing proper service of the Motion on defense counsel.

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3. **25PR00342 ESTATE OF LOPEZ, JAMES M**

EVENT: Nancy Sandburg's First Amended Petition to Determine Beneficiary of Non-Probate Asset

This matter is continued to July 28, 2026 at 9:00 a.m. to be heard on the Court's regular probate estate calendar. No appearances are required on July 8, 2026.