

**Judge Mosbarger – Law & Motion – Wednesday, August 24, 2022 @ 9:00 AM
TENTATIVE RULINGS**

1. 19CV02948 EASTWIN LLC V. FOUR SEASONS LANDSCAPE

EVENT: Motion to be Relieved as Counsel

There is no proof of service in the Court's file and as such, notice does not comply with Cal Rules of Ct 3.1362(d) or Code of Civil Procedure §1005. The Motion is denied. The Case Management Conference is advanced and is continued to December 6, 2022 at 10:30 a.m. Case Management Conference Statements are to be timely filed and served.

2. 21CV00045 STOTT OUTDOOR ADVERTISING, A GENERAL PARTNERSHIP V. WHITE, BLAINE D ET AL

*EVENTS: (1) Plaintiff-Intervenor Mahoney Capital, LP's Motion for Summary Adjudication
(2) Plaintiff Stott Outdoor Advertising's Motion for Summary Judgment, or in the Alternative, Summary Adjudication*

This matter has been reassigned to Judge Stephen E. Benson.

3. 22CV01358 IN RE: CLIFTON MICHAEL WATKINS

EVENT: Amended Verified Petition for Pre-Suit Discovery for Purposes of Preserving Evidence

The notice, petition, supporting memorandum, and declarations must be served on each natural person or organization named in the petition as an expected adverse party in the same manner as a summons is served. See, *Code of Civil Procedure* §2035.040. Here, the proof of service shows service by email on an attorney – Tae Kin – presumably on behalf of Rebecca Herrera on June 16, 2022. While the notice *period* is sufficient, Petitioner identifies at least two individuals (Rebecca Herrera and Jose Arrellano Escobar) who could potentially be adverse parties and there is no evidence that either of those individuals were served “as a summons is served.” The Petition is denied.

4. 22CV01415 GILLON, DOUGLAS J ET AL V. GOMES, STEVEN

EVENTS: (1) Motion for Change of Venue

(2) Case Management Conference

The Court finds that the Order, Decision or Award of the Labor Commissioner identifies “the appropriate Court” as the California Superior Court, County of Mendocino, Mendocino County Courthouse. Defendants/Appellants’ have provided no authority that would allow a new selection of venue just because a case is reviewed de novo. In contrast, Plaintiff/Respondent has provided examples where

that is not the case. See, e.g., CCP §116.710(b); *Pressler v. Donald L. Bren Co.* (1982) 32 Cal.3d 831, 836. Thus, on that basis, the Court concludes that venue is in Mendocino County. Additionally, the Court is persuaded by Plaintiff/Respondent's argument that Defendants/Appellants, who filed this case to challenge the Labor Commission's ruling on Plaintiff/Respondent's wage claim, are in the position of plaintiffs, and under *Civil Code* §395, venue for their action would be appropriate only where Plaintiff/Respondent, who assumes the position of a defendant, resides, or where the Defendants/Appellants' liability arose, meaning that venue is proper only in Mendocino County. Plaintiff/Respondent Steven Gomes' Motion for Change of Venue is granted and Defendants/Appellants Douglas J. Guillon and Guillon Constructions, Inc. are to pay the costs of transfer pursuant to CCP §399(a). The Court will sign the form of order submitted.

The Case Management Conference is vacated and the matter is set for a Status Hearing on October 5, 2022 at 10:30 a.m. for status of transfer.

5. 22CV01575 JG WENTWORTH ORIGINATIONS, LLC V. HART, JANCINA

EVENT: Verified Petition for Approval for Transfer of Payment Rights

The Petition is granted as it appears to the Court that the transfer complies with the requirements of Insurance Code Section 10137 and is in the best interest of the Payee. Petitioner shall submit a form of order within two weeks.

6. 22MH00407 PETITION OF: LEVINE, SHANTAY ADRIAN

EVENT: Hearing on Request for Relief from Firearms Prohibition

The Court will conduct a hearing.