

**Judge Mosbarger – Law & Motion – Wednesday, September 6, 2023 @ 9:00 AM
TENTATIVE RULINGS**

1. 20CV01114 JACQUES, NANETTE V. AWI MANAGEMENT CORPORATION ET AL

EVENT: Motion by Defendant for Attorney's Fees

The Court finds Plaintiff's claims under FEHA were not frivolous, unreasonable, or groundless, and were not clearly so at any time during litigation. Thus, Defendants are not entitled to an award of attorneys' fees. See *Williams v. Chino Valley Independent Fire District* (2015) 61 Cal.4th 97, 114. The Motion is DENIED.

2-4. 21CV00365 EDWARDS, TYLER J ET AL V. PRUIS, BRANNON ET AL

EVENTS: (1) Application for Right to Attach Order as to Tyler Edwards, Inc.

(2) Application for Right to Attach Order as to James Edwards

(3) Application for Right to Attach Order as to Tyler Edwards

Cross-Complainants' requests for attachment orders are DENIED, the Court finding that Cross-Complainants have failed to establish the probable validity of their claims against Cross-Defendants.

5. 21CV02396 SHANE, KAREN V. LAW OFFICE OF LEVERENZ, FERRIS AND SELBY ET AL

EVENT: Defendants' Amended Demurrer to Cause of Action for Breach of Fiduciary Duty

Defendants' Request for Judicial Notice is granted. The Court finds that the cause of action for breach of fiduciary duty has been sufficiently plead [Complaint at ¶¶4, and 11-13], and the facts that support the cause of action for breach of fiduciary duty are separate and distinct from those that support the cause of action for negligence. Additionally, the Court finds that the allegations are sufficient to apprise the Defendants of the issues to be met in the litigation and is not so incomprehensible that Defendants cannot reasonably respond. See, *Lickiss v Financial Indus. Regulatory Auth.* (2012) 208 Cal.App.4th 1125, 1135. The Amended Demurrer is overruled in its entirety and Defendants shall file and serve a responsive pleading within 20 days' notice of this ruling. Plaintiff shall submit a form of order within two weeks.

6. 23CV00189 VOLLRATH, MICHAEL DAVID V. MID VALLEY TITLE AND ESCROW COMPANY ET AL

EVENT: Plaintiff's Motion for Leave to Amend Pleading

Plaintiff has failed to comply with the procedural requirements for this type of motion found in CRC 3.1324(a), which states a motion to amend a complaint must include a copy of the proposed pleadings and identification of the allegations that are to be changed by page, paragraph and line number. Here, while there is a copy of the proposed Amended Complaint attached to the Motion filed on August 2, 2023, the

proposed changes are not specifically identified and Plaintiff fails to comply with subsection (b) of the Rule which requires a supporting declaration that must specify: “(1) The effect of the amendment; (2) Why the amendment is necessary and proper; (3) When the facts giving rise to the amended allegations were discovered; and (4) The reasons why the request for amendment was not made earlier.” The Court concludes that the Motion fails to satisfy the procedural requirements of California Rules of Court Rule 3.1324(a), (b). The Motion is denied.

7. 23CV01528 IN RE: MARKEY, MAKENNA

EVENT: Petition for Change of Name

The Court will hear from the parties.