

**Tentative Rulings and Resolution Review Hearings
August 13, 2018
Department 3**

This Court does not follow the procedures described in Rules of Court, Rule 3.1308(a). Tentative rulings appear on the calendar outside the court department on the date of the hearing, pursuant to California Rule of Court, Rule 3.1308(b)(1). As a courtesy to counsel, the court also posts tentative rulings no less than 12 hours in advance of the time set for hearing. The rulings are posted on the court’s website (www.shasta.courts.ca.gov) and are available by clicking on the “Tentative Rulings” link. A party is not required to give notice to the Court or other parties of intent to appear to present argument.

8:30 a.m. – Law & Motion

**BERTAIN VS. HANNAN
Case Number: 189275**

This matter was on calendar for a motion to compel. Today’s hearing was continued to September 10, 2018 by the Court’s order dated August 9, 2018. No appearance is necessary on today’s calendar.

**CHATHAM VS. STEPP, ET AL
Case Number: 187815**

Tentative Ruling on Motion to Quash Subpoena of Business Records: Defendant, Jacob Kevin Stepp moves pursuant to CCP § 1987.1 for an order quashing the deposition subpoena issued by Plaintiff, Megan Valeria Chatham, for the production of business records held by Bank of America.

As a preliminary matter it should be noted that the opposition was untimely. Oppositions are due nine Court days before the hearing. CCP § 1005. The hearing was set for August 13, 2018 and therefore the opposition was due on July 31, 2018. The opposition was filed on August 7, 2018. The proof of service shows that the opposition was not served until August 7, 2018 and was therefore untimely. Even if the Court were to consider the closure from July 30-August 3 due to the Carr Fire there is no excuse why the opposition was not timely served on the opposing parties. The Court will exercise its discretion and consider the tardy opposition. CRC 3.1300(d).

Plaintiff’s first argument in opposition is that the motion was filed after the discovery motion deadline imposed by CCP § 2024.020. That statute imposes two deadlines. First, it requires that all discovery be completed by on or before the 30th day before trial. Second all discovery motions must be heard on or before the 15th day before trial. Trial was previously set to be heard in this matter on August 7, 2018. The motion was set to be heard after the trial date and therefore violates the second deadline imposed by CCP § 2024.020. Plaintiff ignores the first deadline. The Deposition Subpoena attached to Mr. Ricks’ declaration shows that the production was to be completed on July 18, 2018 less than 30 days before trial. Plaintiff attempted to obtain discovery after the cut-off date imposed by CCP § 2024.020. This attempt severely limited the time in which Defendant could file the required motion. Plaintiff having created a situation where Defendant would have to file a last minute motion now complains about the last minute motion.

It is clear that both parties are in violation of CCP § 2024.020. The Plaintiff by seeking to have discovery produced after the 30 day cut-off and Defendant for seeking to quash the subpoena after the 15 day cut-off. However, since Plaintiff's violation was first and arguably caused Defendant's violation the motion will be granted and the subpoena quashed due to Plaintiff's violation of CCP § 2024.020.

As for sanctions, Defendant first requested them in his reply. The Court cannot grant relief that Defendant was not put on notice would be requested. With no mention of sanctions in the Notice of Hearing, the request is denied.

The motion is GRANTED. Sanctions are DENIED. Defendant is to prepare a new order consistent with the Court's ruling above.

IN RE HUDGEN

Case Number: 29681

Tentative Ruling on Petition for Order Approving Minor's Compromise: Due to delays caused by the Carr Fire and the Court's closure from July 30th through August 3rd, this Petition is continued one week to **Monday, August 20, 2018 at 8:30 a.m. in Department 3.** No appearance is necessary on today's calendar.

LVNV FUNDING VS. WARNER

Case Number: 17CV507

Tentative Ruling on Order to Show Cause Re Dismissal: An Order to Show Cause Re: Dismissal ("OSC") issued on July 9, 2018 to Plaintiff for its failure to appear for trial on July 2, 2018. No response has been provided to the OSC. The only document filed post issuance of the OSC is a case management statement which indicates that a default package is being prepared. The CMC statement does not address counsel's failure to enter default or default judgment earlier and does not address counsel's failure to appear at trial. It should be noted that Defendant was served in July of 2017. Plaintiff is in violation of CRC 3.740(f) which requires the plaintiff in a collection action to obtain a default judgment within 360 days of the filing of the complaint. No default has been entered and no default judgment has been requested. Plaintiff has ignored the scheduled trial date and the California Rules of Court in this matter.

The Court DISMISSES this action. The clerk is instructed to prepare a separate Order of Dismissal and to close the file.

SHARMA VS. DEPT OF INDUSTRIAL RELATIONS

Case Number: 190339

This matter was dismissed on August 8, 2018. No appearance is necessary on today's calendar.

WARD, ET AL VS. STATE OF CALIFORNIA, CHP

Case Number: 187305

Tentative Ruling on Motion to Be Relieved as Counsel: The Court notes that this motion is unopposed. Counsel, Michael Cogan seeks to be relieved as counsel for Plaintiff, Shirley Ward.

CRC 3.1362 specifies the requirements for a motion to be relieved as counsel. CRC 3.1362(c) requires that the declaration state in general terms and without compromising the confidentiality of the attorney-client relationship why a motion to be relieved as counsel is brought instead of filing a consent under CCP § 284(1). Mr. Cogan has established in general terms that there has been a breakdown in the relationship. The

information provided in the declaration is sufficient to establish a need to be relieved provided all procedural requirements have been met.

CRC 3.1362(d) specifically requires service of the motion, supporting declaration and proposed order. The proof of service on file reflect that all three documents have been served. CRC 3.1362(d) also requires service at the current address or last known address. Mr. Cogan’s declaration submitted on July 3, 2018 establishes confirmation of the last known address and actual service on Plaintiff.

The motion to be relieved as counsel is GRANTED. A proposed order has been lodged with the Court which will be modified to reflect the next review hearing set for September 10, 2018. Mr. Cogan is ordered serve the signed order which identifies the continued review hearing by no later than August 27, 2018.

9:00 a.m. – Review Hearings

BERTO VS. WILLIAMS ET AL
Case Number: 18UD289

This matter is on calendar for review regarding trial setting. This matter is not at issue. None of the Defendants have been served. This matter is continued to **Monday, October 29, 2018 at 9:00 a.m. in Department 3** for status of service. No appearance is necessary on today’s calendar.

CHINN VS. SCORCIO
Case Number: 182299

This matter is on calendar for review regarding status of judgment/dismissal. A Notice of Settlement was filed on May 14, 2018 which indicates that the case would be dismissed within 45 days. No dismissal is on file. The Court intends on dismissing this case pursuant to California Rule of Court 3.1385(b) unless the parties appear at today’s hearing and show good cause why the case should not be dismissed.

FAULKNER, ET AL VS. HARRIS
Case Number: 188770

This matter is on calendar for review regarding status of responsive pleadings. A Conditional Notice of Settlement was filed on August 6, 2018 which indicates this matter would be dismissed no later than November 5, 2018. In light of the foregoing, this matter is continued to **Monday, January 7, 2019 at 9:00 a.m. in Department 3**. If a judgment or dismissal is entered at least five days prior to the date set for review, no appearances will be necessary on at the continued hearing date. No appearances are necessary on today’s calendar.

GOSAI VS. MIDDLETON, ET AL
Case Number: 18CV537

This matter is on calendar for review regarding confirmation of filing of the inventory and accounting. The inventory was filed on July 25, 2018 and the accounting was filed on August 8, 2018. No further action is required on this file. No appearance is necessary on today’s calendar.

KNIGHT VS. JONES, ET AL

Case Number: 188353

This matter is on calendar for review regarding status of re-setting trial. The present action is at issue. All parties expressly named in the Complaint or Cross-Complaint have appeared. The Court notes that certain Defendant/Cross-Defendants still need to file an answer to the Cross-Complaint but those answers are not necessary to set this matter for trial. The Court designates this matter as a Plan II case and intends on setting the matter for trial no later than March 19, 2019. Only Defendant, Jeff Lausten has posted jury fees. All other parties have not yet posted. The parties are granted 10 days leave to post jury fees. A failure to post jury fees in that time will be deemed a waiver of the right to a jury. The parties are ordered to appear to provide the Court with available trial dates.

LOOMIS VS. LES SCHWAB TIRE CENTERS

Case Number: 188399

This matter is on calendar for review regarding trial re-setting. The present action is at issue. The Court designates this matter as a Plan II case and intends on setting the matter for trial no later than March 26, 2019. Neither party has posted jury fees. The parties are granted 10 days leave to post jury fees. A failure to post jury fees in that time will be deemed a waiver of the right to a jury. The parties are ordered to appear to provide the Court with available trial dates.

LVNV FUNDING VS. THOMPSON

Case Number: 17CV431

This matter is on calendar for review regarding status of default. This action was filed on June 8, 2017. Defendant was served on July 8, 2017. No request for entry of default has been submitted. Plaintiff is in violation of CRC 3.740(f) for its failure to obtain a default judgment within 360 days of filing of the complaint. Plaintiff is ordered to appear to provide the Court with a status of the default judgment.

LVNV FUNDING VS. WARNER

Case Number: 17CV507

This matter was on calendar for review regarding status of the case. This litigation was dismissed by the Court at today's law and motion calendar. No appearance is necessary on today's calendar.

MAXEY-SUAREZ, ET AL. VS. MCGUIRE, ET AL.

Case Number: 187625

This matter is on calendar for review regarding status of the case. Plaintiff's Status Conference Statement requests a continuance of 90 days to pursue settlement. In light of the foregoing, this matter is continued to **Monday, November 19, 2018, at 9:00 a.m. in Department 3.** The parties are ordered to submit status reports related to the progress of the litigation and settlement. The report should include statements as to whether the litigation is at issue. No appearance is necessary on today's calendar.

SAECHAO, ET AL. VS. VOORHEES

Case Number: 187626

This matter is on calendar for review regarding status of the case. At the mandatory settlement conference on February 13, 2018, the Court was informed that Defendant, Theodore Voorhees had passed away. Mr. Voorhees has not been dismissed but his Estate has been added as a Doe Defendant. There is no proof of service

on the Estate. No documentation has been filed with the Court to provide a status of the litigation. The parties are ordered to appear to provide the Court with a status of the litigation.