

**Tentative Rulings
November 10, 2016
Department 6 (Specially Set in Juvenile Justice Center)**

NOTE: 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 and Motion

**JOHNSON VS. DIGNITY HEALTH
Case Number: 182644**

Tentative Ruling on Motion to Be Relieved as Counsel: Matthew Corsaut, counsel for the Plaintiff, seeks to be relieved as counsel. CRC Rule 3.1362 specifies the requirements for a motion to be relieved as counsel. Mr. Corsaut has failed to satisfy the procedural requirements set forth in CRC Rule 3.1362. Specifically, Rule 3.1362(d) requires the notice of motion, declaration, and proposed order to be served on the client. According to the proof of service, only the notice of motion has been served.

Even if the documents were properly served, turning to the merits of the motion, Mr. Corsaut has failed to establish that his fee agreement with his client requires him to be relieved as counsel. Furthermore, while counsel contends the scope of the agreement was for pre-litigation negotiations only, Mr. Corsaut has been attorney of record on this case for 16 months and has not only filed the complaint, but participated in discovery and even opposed a motion for summary judgment. His conduct in continuing with this representation contradicts his argument that the scope of his representation was limited. There is no explanation provided as to why counsel did not seek to substitute out of this matter or move to be relieved earlier in this litigation. As for Plaintiff’s recent failure to cooperate, Mr. Corsaut has previously represented to this Court that Plaintiff was hospitalized due to medical issues which would explain his failure to timely return calls. In addition, the motion was filed prior to the opposition to the motion for summary judgment, and it appears that counsel did have communication and cooperation with his client in order to prepare and have his client execute a declaration on October 21, 2016. Finally, Mr. Corsaut appears to argue that Plaintiff is entitled to more experienced trial counsel, but there appears to be nothing prohibiting Mr. Corsaut from associating in more experienced counsel for purposes of trial.

The motion is DENIED without prejudice for failure to comply with Rule 3.1362(d). If Mr. Corsaut files a new motion to be relieved, the Court will require more detailed information to justify being relieved as counsel. Defendant shall prepare the order.

Tentative Ruling on Motion for Continuance of Trial Date: Plaintiff seeks to continue the trial date of December 13, 2016 pursuant to California Rule of Court, Rule 3.1332.

Trial dates should be considered as certain. CRC 3.1332(a). The Court has discretion to

continue a trial date upon a showing of “good cause.” CRC 3.1332(c) and (d). CRC 3.1332(c)(2) provides, “The unavailability of a party because of death, illness, or other excusable circumstances” is good cause for a trial continuance. Further, CRC 3.1332(c)(7) provides, “A significant, unanticipated change in the status of the case as a result of which the case is not ready for trial” is good cause for a trial continuance. Plaintiff is alleging two grounds for the continuance. First, Plaintiff alleges his health issues may prohibit him from preparing for and appearing at trial. This allegation is unsupported by an evidentiary support. Counsel’s declaration does not address Plaintiff’s medical issues. Counsel appears to have had contact with his client on or about October 21, 2016 for purposes of preparing and having him execute his declaration in opposition to the Motion for Summary Judgment. No additional information has been provided as to plaintiff’s medical issues. For this reason, the Court finds that Plaintiff has failed to show that he is unavailable for trial due to illness. CRC 3.1332(c)(2).

Second, Plaintiff alleges that new counsel will need additional time to prepare for trial. This argument is predicated on the Court granting the simultaneously filed motion to be relieved as counsel. As noted above, that motion is denied without prejudice. Therefore any factual basis related to new counsel needing to prepare for trial is without merit. Additionally, counsel contends that the scope of his representation was limited to pre-litigation settlement and that he filed the complaint as a courtesy. Therefore, the need for new counsel has been anticipated since at least the date the complaint was filed. For these reasons, the Court finds that Plaintiff has failed to establish a “significant, unanticipated change in the status of the case” based on the need for new counsel to prepare for trial. CRC 3.1332(c)(7).

The motion is DENIED without prejudice. A proposed order was lodged with the Court, which will be modified to reflect the denial.