Tentative Rulings and Resolution Review Hearings
November 28, 2016
Departments 8

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.

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Law and Motion – 8:30 a.m.

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IN RE CARLSON
Case Number: 185880

Tentative Ruling on Petition for Change of Name: Petitioner seeks to change his name from "Jeremy Lee Carlson" to "Jeremy Lee Kelley." Proper proof of publication is on file, and no objections have been raised. The stated reason for the name change is proper. The papers otherwise appear to be in order. The *Petition for Change of Name* is **GRANTED**.

It is the established administrative practice in Shasta County Superior Court to set settlement conference and trial dates when a civil action is filed. Those proceedings and dates are not conducive to the expeditious resolution contemplated for this type of proceeding. Therefore, the settlement conference set for May 30, 2017 and the trial set for August 29, 2017 are hereby **vacated**.

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Resolution Review – 9:00 a.m.

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MIDLAND FUNDING LLC VS. QUIGLEY
Case Number: 14 CV 92

Resolution Review re Status of Judgment: This is a collections case subject to CRC 3.740. The complaint was filed February 3, 2014. The plaintiff is Midland Funding LLC. The defendant is Terri Quigley. The complaint alleges a single cause of action for account stated. The amount in controversy is $1,798.47. Defendant answered in March 2014. The parties entered into a stipulated settlement in April 2014. Accordingly, this Court executed an order pursuant to that stipulation in April 2014, which retained jurisdiction over this matter pursuant to CCP § 664.6.

In October 2015, Plaintiff brought a *Motion to Vacate Dismissal and Enter Judgment*. The Court granted that request and executed an order thereon in November 2015. At that time, the Court specifically ordered Plaintiff to lodge a proposed judgment with the Court. A proposed judgment was never submitted. Instead, Plaintiff served a *Notice of Entry of Judgment* on Defendant and then filed that document with the Court in November 2015. The document referenced in that notice was the order granting the *Motion to Vacate Dismissal and Enter Judgment*, but an *order* is not a *judgment*. *See People v. Superior Court of Los Angeles County* (2015) 234 Cal.App.4th 1360, 1372-1373 (distinguishing, in the context of summary judgment, the difference between a *ruling* granting a motion for summary judgment and the actual entry of *judgment*). Therefore, when

the matter came on for Resolution Review in January 2016, the *Notice of Entry of Judgment* was stricken from the file on the Court's own motion and the clerk was directed to serve a copy of minutes from the January 11, 2016 Resolution Review hearing on all parties. Those minutes were not served on the parties until October 2016, when an *Order Setting Resolution Review re Status of Judgment* was issued by the Court.

Collections cases within the purview of CRC 3.740 are generally subject to stricter time standards of about one year. *See* CRC 3.740(d)-(f). And, under the Trial Court Delay Reduction Act, "judges shall have all the powers to impose sanctions authorized by law, including the power to dismiss actions or strike pleadings, if it appears that less severe sanctions would not be effective after taking into account the effect of previous sanctions or impose sanctions to achieve the purposes of this article." *Government Code* § 68608(b). It has been more than a year since this Court granted Plaintiff's *Motion to Vacate Dismissal and Enter Judgment*, and yet a judgment is not on file.

Disposition. An *Order to Show Cause re Monetary Sanctions* in the amount of $250 shall issue to Plaintiff and Plaintiff's counsel for failure to comply with the Court's order of January 11, 2016, and shall be set for **Tuesday, January 17, 2017 at 8:30 a.m. in Department 8**. **WARNING**: Failure to comply with the Court's order of January 11, 2016 may ultimately result in the issuance of an *Order to Show Cause re Dismissal* against Plaintiff.