

**Tentative Rulings and Resolution Review Hearings
November 4, 2024
Department 64 (formerly 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.

Per Local Rule 5.13, telephonic appearances through CourtCall (888-882-6878; courtcall.com) are generally permitted on the Law & Motion and Resolution Review calendars and can be made without leave of Court.

8:30 a.m. Law and Motion

CHARLAND VS. ROSS STORES, INC, ET AL.

Case Number: 24CV-0205458

Tentative Ruling on Motion to Compel Arbitration: This is a wage and hour action. Plaintiff Brooke Charland worked at Ross Dress for Less, in Redding. She was hired on April 30, 2023. Defendants Ross Stores, Inc. and Ross Dress for Less, Inc. seek to compel arbitration per the terms of a Dispute Resolution Agreement (“DRA”) Plaintiff signed electronically as part of her onboarding process. No opposition has been filed.

Existence of Agreement. CCP § 1281.2 requires the Court to grant a petition to compel arbitration where it determines that an agreement to arbitrate the controversy exists. The court makes this determination in a summary process. (See § 1290.2.) “[T]he trial court sits as a trier of fact, weighing all the affidavits, declarations, and other documentary evidence, as well as oral testimony received at the court's discretion, to reach a final determination.” (*Engalla v. Permanente Medical Group, Inc.* (1997) 15 Cal.4th 951, 972.) The burden of persuasion is always on the moving party to prove the existence of an arbitration agreement with the opposing party by a preponderance of the evidence: “Because the existence of the agreement is a statutory prerequisite to granting the [motion or] petition, the [party seeking arbitration] bears the burden of proving its existence by a preponderance of the evidence.” (*Rosenthal v. Great Western Fin. Securities Corp.* (1996) 14 Cal.4th 394, 413.) *Gamboa v. Ne. Cmty. Clinic* (2021) 72 Cal.App.5th 158, 164–65. The moving party “can meet its initial burden by attaching to the [motion or] petition a copy of the arbitration agreement purporting to bear the [opposing party's] signature.” (*Bannister v. Marinidence Opco, LLC* (2021) 64 Cal.App.5th 541.)

Here, Defendant has provided a copy of the DRA electronically executed by Plaintiff. Defendant has also submitted a Declaration of Dan Stock, the Senior Director of Human Resources Information Systems. The Declaration of Stock authenticates the DRA and provides detailed evidence regarding the standard employee onboarding process, the security of the online system used, and the method of execution. The Declaration also describes the process as it applied specifically to Plaintiff, including when she executed the DRA. Supporting exhibits are attached;

including screenshots of relevant portions of the online onboarding system. Defendants have carried their burden to demonstrate an agreement to arbitrate the controversy exists.

If the moving party meets its initial prima facie burden and the opposing party disputes the agreement, then in the second step, the opposing party bears the burden of producing evidence to challenge the authenticity of the agreement. (*See Condee v. Longwood Management Corp.* (2001) 88 Cal.App.4th at p. 219.) Here, no opposition has been filed and thus there is no challenge to the authenticity of the agreement. The moving party has met its burden and the Court is required to compel arbitration if the agreement is enforceable.

Once the Court “determines the agreement to arbitrate exists, it should then decide the other objections to its enforceability. The court must grant the petition “unless it determines that: (a) The right to compel arbitration has been waived by the petitioner; or (b) Grounds exist for the revocation of the agreement.” (§ 1281.2.)” *Condee v. Longwood Management Corp.* (2001) 88 Cal.App.4th at p. 219. Plaintiff bears the burden of showing unconscionability by a preponderance of the evidence. *Peng v. First Republic Bank* (2013) 219 Cal.App.4th 1462, 1468. Plaintiff has not opposed the Motion, and no unconscionability has been alleged. There is no evidence before the Court that Defendants have waived their right to compel arbitration, or that any other grounds exist for revocation of the agreement. The DRA will be enforced.

The Motion to Compel Arbitration is **GRANTED**. This matter is stayed pending the outcome of arbitration. No proposed order has been lodged as required by Local Rule 5.17(D). Defendant shall prepare the order. This matter is set for a review hearing regarding status of arbitration on **Monday, May 5, 2025, at 9:00 a.m. in Department 64**. The parties are ordered to provide a status report to the Court no later than five court days prior to the review hearing.

IN RE: GOODWIN

Case Number: 24CV-0204974

Tentative Ruling on Petition for Change of Name: Petitioner Linda Jeanette Goodwin seeks to change her name to Linda Jeanette Lovely-Goodwin. All procedural requirements of CCP §§ 1275 et. seq. have been satisfied. The Petition is **GRANTED**. All future dates will be vacated, and the file closed upon the processing of the Decree Changing Name.

MORIN VS. ROSS STORES, INC., ET AL.

Case Number: 24CV-0205453

Tentative Ruling on Motion to Compel Arbitration: This is a wage and hour action. Plaintiff Sabrina Morin worked at Ross Dress for Less, in Redding. She was hired on or about July 1, 2023. Defendants Ross Stores, Inc. and Ross Dress for Less, Inc. seek to compel arbitration per the terms of a Dispute Resolution Agreement (“DRA”) Plaintiff signed electronically as part of her onboarding process. No opposition has been filed.

Existence of Agreement. CCP § 1281.2 requires the Court to grant a petition to compel arbitration where it determines that an agreement to arbitrate the controversy exists. The court makes this determination in a summary process. (See § 1290.2.) “[T]he trial court sits as a trier of fact, weighing all the affidavits, declarations, and other documentary evidence, as well as oral testimony received at the court's discretion, to reach a final determination.” (*Engalla v. Permanente Medical Group, Inc.* (1997) 15 Cal.4th 951, 972.) The burden of persuasion is always on the moving party to prove the existence of an arbitration agreement with the opposing party by a preponderance of

the evidence: “Because the existence of the agreement is a statutory prerequisite to granting the [motion or] petition, the [party seeking arbitration] bears the burden of proving its existence by a preponderance of the evidence.” (*Rosenthal v. Great Western Fin. Securities Corp.* (1996) 14 Cal.4th 394, 413.) *Gamboa v. Ne. Cmty. Clinic* (2021) 72 Cal.App.5th 158, 164–65. The moving party “can meet its initial burden by attaching to the [motion or] petition a copy of the arbitration agreement purporting to bear the [opposing party's] signature.” (*Bannister v. Marinidence Opco, LLC* (2021) 64 Cal.App.5th 541.)

Here, Defendant has provided a copy of the DRA electronically executed by Plaintiff. Defendant has also submitted a Declaration of Dan Stock, the Senior Director of Human Resources Information Systems. The Declaration of Stock authenticates the DRA and provides detailed evidence regarding the standard employee onboarding process, the security of the online system used, and the method of execution. The Declaration also describes the process as it applied specifically to Plaintiff, including when she executed the DRA. Supporting exhibits are attached, including screenshots of relevant portions of the online onboarding system. Defendants have carried their burden to demonstrate an agreement to arbitrate the controversy exists.

If the moving party meets its initial prima facie burden and the opposing party disputes the agreement, then in the second step, the opposing party bears the burden of producing evidence to challenge the authenticity of the agreement. (*See Condee v. Longwood Management Corp.* (2001) 88 Cal.App.4th at p. 219.) Here, no opposition has been filed and thus there is no challenge to the authenticity of the agreement. The moving party has met its burden and the Court is required to compel arbitration if the agreement is enforceable.

Once the Court “determines the agreement to arbitrate exists, it should then decide the other objections to its enforceability. The court must grant the petition “unless it determines that: (a) The right to compel arbitration has been waived by the petitioner; or (b) Grounds exist for the revocation of the agreement.” (§ 1281.2.)” *Condee v. Longwood Management Corp.* (2001) 88 Cal.App.4th at p. 219. Plaintiff bears the burden of showing unconscionability by a preponderance of the evidence. *Peng v. First Republic Bank* (2013) 219 Cal.App.4th 1462, 1468. Plaintiff has not opposed the Motion, and no unconscionability has been alleged. There is no evidence before the Court that Defendants have waived their right to compel arbitration, or that any other grounds exist for revocation of the agreement. The DRA will be enforced.

The Motion to Compel Arbitration is **GRANTED**. This matter is stayed pending the outcome of arbitration. No proposed order has been lodged as required by Local Rule 5.17(D). Defendant shall prepare the order. This matter is set for a review hearing regarding status of arbitration on **Monday, May 5, 2025, at 9:00 a.m. in Department 64**. The parties are ordered to provide a status report to the Court no later than five court days prior to the review hearing.

NAVITAS CREDIT CORP. VS. BETH DOES NAILS LLC, ET AL.

Case Number: 23CV-0201878

Tentative Ruling on Order to Show Cause Re: Contempt: An Order to Show Cause Re: Contempt (“OSC”) issued on September 23, 2024, to Beth Does Nails LLC and Elizabeth Leese-Ryan for failure to comply with this Court’s April 15, 2024 Order granting Plaintiff’s Motion for Assignment of Rights. Proper proof of personal service is on file. No response to the Order to Show Cause has been filed.

The elements that support punishment for contempt are (1) a valid court order; (2) the alleged contemnor's knowledge of the order; and (3) noncompliance. *In Re Marcus* (6th Dist. 2006) 138 Cal.App.4th 1009. An individual may be held in contempt of court for "disobedience of any lawful judgment, order, or process of the court." CCP §1209(a)(5). If, after investigation and hearing, the individual is found guilty of contempt, he may be punished with a fine not to exceed \$1000 or imprisonment not to exceed five days. CCP §1218(a). He may be ordered to pay the moving party's attorney's fees and costs. CCP §1218(a). If the contempt results from the individual's failure to perform an act that is within his power to perform, he may be imprisoned until he has performed the act. CCP §1219(a).

In this case, Plaintiff seeks imprisonment of Defendant if she is found guilty of contempt in addition to a possible monetary fine. Because the OSC hearing may result in depriving Defendant of her physical liberty, she has a due process right to court-appointed counsel if she demonstrates that she is financially unable to obtain counsel on her own. *Iraheta v. Superior Court* (2nd Dist. 1999) 70 Cal.App.4th 1500, 1503; *Lassiter v. Department of Social Services* (1981) 452 U.S. 18, 25; *Salas v. Cortez* (1979) 24 Cal.3d 22; *Conservatorship of Sides* (3rd Dist. 1989) 211 Cal.App.3d 1086, 1091-1092. **The parties should attend this hearing prepared to set a date for an evidentiary hearing on the Order to Show Cause re Contempt. Defendant should also be prepared to address the issue of her eligibility for court-appointed counsel to represent her only at the OSC hearing.**

SHILICH VS. WHEELER

Case Number: 24CH-0205521

Tentative Ruling on Motion for Attorney Fees: Respondent Wilder Wheeler seeks attorney fees and costs as prevailing party in this matter. CCP § 527.6 governs civil restraining orders. Subsection (s) provides that the prevailing party in an action brought pursuant to this section may be awarded court costs and attorney's fees, if any. CCP § 527.6(s). In determining the amount of attorney's fees to which a litigant is entitled, an experienced trial judge is the best judge of the value of professional services rendered in his or her court. *Granberry v. Islay Investments* (1995) 9 Cal. 4th 738, 752. "Under the lodestar method, the trial court must first determine the lodestar figure—the reasonable hours spent multiplied by the reasonable hourly rate—based on a careful compilation of the time spent and reasonable hourly compensation of each attorney involved in the presentation of the case. (*Ketchum, supra*, 24 Cal.4th at pp. 1131-1133, 104 Cal.Rptr.2d 377, 17 P.3d 735.)" *Glaviano v. Sacramento City Unified Sch. Dist.* (2018) 22 Cal. App. 5th 744, 751. "The reasonable hourly rate is that prevailing for private attorneys in the community conducting non-contingent litigation of the same type. [Citations]" *Ibid.*

Respondent is the prevailing party and therefore entitled to fees and costs. Counsel for Respondent requests a rate of \$300 per hour which is reasonable. However, the declaration of counsel is insufficient to warrant the number of hours requested. The declaration provides a general overview of time spent, but is not a "careful compilation of the time spent" and the descriptions provided are not sufficiently detailed to permit the Court to make a finding that they are reasonable. For example "Reviewed property in Igo" does not appear to constitute attorney services. Counsel also spent 2 hours reading and studying the Request for Civil Harassment Restraining Order, which is a Judicial Council form pleading. Trial preparation is itemized for 6 hours, but Respondent called no witnesses during the two-hour trial. This appears unreasonable. The Court finds 10 hours to be reasonable in this case.

The motion is **GRANTED** and fees will be awarded to Respondent in the amount of \$3,000. Respondent did not provide a proposed Order as required by Local Rule of Court 5.17(D). Respondent is to prepare the Order.

9:00 a.m. Review Hearings

CAPIK VS. DEPARTMENT OF MOTOR VEHICLES

Case Number: 24CV-0205897

This matter is on calendar for review regarding status of the writ. Plaintiff filed a Supplement to Status Hearing Statement on October 23, 2024, indicating that the parties have agreed to settle this matter. However, no notice of settlement or dismissal has been filed. Today’s hearing is continued to **Monday, December 9, 2024 at 9:00 a.m. in Department 64** for review regarding status of settlement. **No appearance is necessary on today’s calendar.**

EDWARDS VS. UPS, ET AL.

Case Number: 24CV-0204476

This matter is on calendar for review regarding status of removal. The Court is in receipt of a “Notice of Removal of Action to United States District Court” filed in the Shasta County Superior Court on May 3, 2024. Pursuant to that notice, this Court’s jurisdiction is automatically suspended. 28 USC §1446(d); *Allstate Insurance Co. v. Superior Court* (1982) 132 Cal.App.3d 670. All future hearing dates are vacated. This matter is removed from the Court’s control, and no other appearances are required by the parties unless or until this matter is remanded back to state court. Plaintiff is ordered to dismiss this action when the Federal matter resolves. **No appearance is necessary on today’s calendar.**

MARSHALL, ET AL. VS. SEIGMUND, ET AL.

Case Number: 23CV-0203641

This matter is on calendar for trial re-setting. The matter was previously set for trial on October 15, 2024. That date was vacated due to unavailability of the Court. **The parties are ordered to appear and provide available trial dates.**

JOHNSON VS. SAAVERDRA

Case Number: 23CV-0201564

This matter is on calendar for trial re-setting. The matter was previously set for trial on October 15, 2024. That date was vacated due to unavailability of the Court. **The parties are ordered to appear and provide available trial dates.**

NORTH MILL EQUIPMENT FINANCE LLC VS. PAYTON DAVIS TRUCKING & EQUIPMENT, INC, ET AL.

Case Number: 24CV-0205617

This matter is on calendar for confirmation of filing amended proofs of service. Amended proofs of service have been timely filed. Pursuant to its tentative ruling dated October 28, 2024, the Court GRANTS Plaintiff’s Application for Writ of Possession. No proposed orders and writs have been filed. Plaintiff shall submit them for execution. **No appearance is necessary on today’s calendar.**

PEOPLE OF THE STATE OF CALIFORNIA VS. \$700.00 U.S. CURRENCY, ET AL

Case Number: 24CV-0206013

This matter is on calendar for review regarding status. Real Party in Interest Martin Cortes filed a Claim Opposing Forfeiture on September 16, 2024. No Petition for Forfeiture in Rem has been

filed. **The parties are ordered to appear and provide a status of this matter and any underlying criminal mater.**

RAMSOUR VS. APPLEWOOD OPERATING COMPANY, LLC, ET AL.

Case Number: 23CV-0202797

This matter is on calendar for review regarding status of mediation and trial setting. No status statements have been filed. The previous trial date was vacated by the Court's order dated April 17, 2024. The Court has designated this matter as exempt from case disposition time standards. Plaintiff has posted jury fees but Defendants have not. Defendants 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.**

SANFILIPPO VS. WATEGA, ET AL.

Case Number: 23CV-0202899

This matter is dropped from calendar due to the filing of a Notice of Settlement. The matter is set for review regarding status of judgment/dismissal on Monday, April 28, 2025, at 9:00 am. in Department 64. **No appearance is necessary on today's calendar.**

SHANE HUGHES CONSTRUCTION, INC. VS. STEPHENS

Case Number: 23CV-0203955

This matter is on calendar for review regarding status of default. The Court notes that Plaintiff attempted to file a Request for Default, but it was rejected by the clerk on October 22, 2024. In the interest of judicial economy, this matter will be continued to permit Plaintiff time to correct any defects and file a Request for Default. Today's hearing will be continued to **Monday, December 9, 2024, at 9:00 a.m. in Department 64** for review regarding status of default. **No appearance is necessary on today's calendar.**

SOUNTHARA VS. GERMONE

Case Number: 23CV-0203666

This matter is on calendar for review regarding trial setting. The previous trial date was vacated by the Court's order dated July 31, 2024. The Court designates this matter as a Plan II case and intends to set the matter for trial no later than May 13, 2025. Defendant has posted jury fees but Plaintiff has not. Plaintiff is 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.**

THE PEOPLE OF THE STATE OF CALIFORNIA VS. \$123,260.00 U.S. CURRENCY

Case Number: 24CV-0205994

This matter is on calendar for review regarding status. A Petition for Forfeiture in Rem was filed September 12, 2024. The Court has no record of a Claim Opposing Forfeiture being filed in this case. **An appearance is necessary on today's calendar to provide the Court with a status of this matter.**