

Monday, February 22, 2021

TO REQUEST A HEARING ON ANY MATTER ON THIS CALENDAR, YOU MUST CALL THE COURT AT (209) 257-2692 BY 4:00 P.M. ON THE DAY PRECEDING THE HEARING. NOTICE OF THE INTENTION TO APPEAR MUST ALSO BE GIVEN TO ALL OTHER PARTIES.

IF THE CLERK IS NOT NOTIFIED OF A PARTY'S INTENTION TO APPEAR, THERE WILL BE NO HEARING AND THE TENTATIVE RULING WILL BECOME THE ORDER OF THE COURT. NO FURTHER NOTICE OF THE COURT'S RULING WILL BE PROVIDED.

20-CVC-11790

VS.

CAL PIA MEAT PLANT

CIVIL MISCELLANEOUS MOTION

TENTATIVE RULING:

Plaintiff's motion for appointment of legal counsel is denied without prejudice. At this early stage in the case, the court finds it is premature to appoint counsel. Defendant has not yet been properly served with the Summons and Complaint.

The court recognizes that a prisoner may not be deprived, by his inmate status, of meaningful access to the civil courts if the prisoner is both indigent and a party to a bona fide civil action threatening his personal or property interests. Meaningful access to the courts is the "keystone" of an indigent prisoner's right to defend against and prosecute bona fide civil actions, but such meaningful access does not necessarily mandate a particular remedy to secure access. (Wantuch v. Davis (1995, Cal App 2d Dist) 32 Cal App 4th 786.)

In considering this motion, the court considered the plaintiff's indigency, the feasibility of a continuance, whether plaintiff's interests are actually at stake, and whether counsel would be helpful under the circumstances of the case. (Apollo v. Gyaami (2008) 167 Cal.App.4th 1468, 1485-1486.) The court notes plaintiff's indigent status, confirmed by his court-approved fee waiver. It is unclear from the moving papers or the Complaint filed if a continuance is feasible. The court notes plaintiff seeks monetary damages resulting from an injury which occurred at the CALPIA meat plant. It is unclear to the court if plaintiff timely complied with the requirements of the Government Tort Claims Act. Although counsel may be helpful at some point, the court does not find the appointment of counsel necessary at this time to ensure plaintiff's meaningful access to court.

The court finds there are several alternatives to appointing counsel which are available and will ensure plaintiff is afforded meaningful access to the courts. (Wantuch, supra, 32 Cal.App.4th at pp.792-793.) Specifically, the court has in place procedures to allow plaintiff to participate in status and settlement conferences, hearings on motions, and other pretrial proceedings by telephone. (In re Grimes (1989) 208 Cal.App.3d 1175, 1182.)

Because plaintiff is incarcerated at Mule Creek State Prison, he is ordered to appear telephonically for hearing on the above tentative ruling. Plaintiff is required to make arrangements with Courtcall to participate by telephone. Orders will be made at time of hearing.

As per Amador Local Rules of Court, rule 4.03, subdivision F, the tentative ruling procedures do not apply in any case in which a self-represented party is in the custody of the California Department of Corrections and Rehabilitation.

20-CVC-11892

SIMON BUILDING LLC A CALIFORNIA
LIMITED LIABILITY

VS.

AMADOR COUNTY

DEMURRER - DEFENDANT'S

TENTATIVE RULING:

Defendant's Demurrer to Plaintiff's Complaint for Inverse Condemnation is continued to March 15, 2021 at 8:30 a.m. in Department 1.

The demurring party failed to file a sufficient declaration, as required by CCP § 430.41(a)(3), showing that the parties met and conferred in person or by telephone for the purpose of determining whether an agreement could be reached to resolve the objections to be raised in the demurrer.

Accordingly, the demurring party is required to file, no later than seven (7) days prior to the new hearing date, a code-compliant declaration stating either (1) the parties have met and conferred and (a) the parties have resolved the objections raised in the Demurrer, which shall be taken off-calendar or (b) the parties did not reach an agreement resolving the objections raised in the Demurrer or (2) the party who filed the pleading subject to Demurrer failed to respond to the meet and confer request or otherwise failed to meet and confer in good faith.

If the demurring party fails to file and serve the declaration demonstrating compliance with the requirements of Section 430.41, the Demurrer will be stricken as procedurally improper.

Unless a hearing is requested, this ruling is effective immediately. Neither further notice of the ruling nor a formal order per CRC 3.1312 is required.