

Thursday, October 21, 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.

21-CVC-12101

DOYLE, AARON

VS.

IHEART HOMES CORPORATION

CIVIL MISCELLANEOUS MOTION - PLAINTIFF

TENTATIVE RULING:

On the court's own motion, Defendant's Motion to Strike and Demurrer are continued to November 4, 2021 at 8:30 a.m. in Department 2.

Plaintiff's Motion to Strike Defendant iHeart Homes Corp. Motion to Set Aside Right to Attach Order, Quash the Writ of Attachment and Release any Property Levied Upon Pursuant to the Writ is GRANTED.

Defendant's Motion to Set Aside Right to Attach Order, Quash the Writ of Attachment and Release any Property Levied Upon Pursuant to the Writ filed September 28, 2021 is STRICKEN.

California Code of Civil Procedure § 1008 governs motions for reconsideration. Subdivision (a) provides: When an application for an order has been made to a judge, or to a court, and refused in whole or in part... any party affected by the order may, within 10 days after service upon the party of written notice of entry of the order and based upon new or different facts, circumstances, or law, make application to the same judge or court that made the order, to reconsider the matter and modify, amend, or revoke the prior order. The party making the application shall state by affidavit what application was made before, when and to what judge, what order or decisions were made, and what new or different facts, circumstances, or law are claimed to be shown. CCP§1008(a) (emphasis added).

Defendants' Motion to Set Aside Right to Attach Order, Quash the Writ of Attachment and Release any Property Levied Upon Pursuant to the Writ filed May 6, 2021 was denied by this court on June 7, 2021 after oral argument.

Defendant offers no legal authority as to how its subsequent motion to set aside is not governed by the provisions of CCP § 1008. The cases cited, *Urias v. Harris Farms, Inc.* (1991) 234 Cal.App.3d 415 (where defendant filed and then renewed statements of disqualification pursuant to CCP § 170.3), and *Tiffany Productions of California, Inc. v. Superior Court of Los Angeles County*, (1933) 131 Cal.App. 729 (where defendant sought to increase Plaintiff's undertaking on its writ of attachment) are not analogous.

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.