

**Superior Court of the State of California
County of Orange**

**Tentative Rulings
Law and Motion Calendar
Department C23
Honorable David J. Hesseltine**

Hearing Date and Time: April 17, 2025, at 2:00 p.m.

Court Reporters: Official court reporters (i.e., court reporters employed by the court) are **NOT** typically provided for law and motion matters in this department. If a party desires a record of a law and motion proceeding, it is that party's responsibility to provide a court reporter, unless the party has a fee waiver and timely requests a court reporter in advance of the hearing (see link at end of this paragraph for further information). Parties must comply with the Court's policy on the use of privately retained court reporters, which may be found at the following link: [Civil Court Reporter Pooling](#). For additional information regarding court reporter availability, please visit the court's website at [Court Reporter Interpreter Services](#).

Tentative Rulings: The court endeavors to post tentative rulings on the court's website no later than 12:00 noon on the date of the afternoon hearing. Tentative rulings will be posted case by case on a rolling basis as they become available. Jury trials and other ongoing proceedings, however, may prevent the timely posting of tentative rulings, and a tentative ruling may not be posted in every case. Please do not call the department for tentative rulings if one has not been posted in your case.

The court will not entertain a request to continue a hearing or any document filed after the court has posted a tentative ruling.

Submitting on Tentative Rulings: If all counsel intend to submit on the tentative ruling and do not desire oral argument, please advise the courtroom clerk or courtroom attendant by calling (657) 622-5223. Please do not call the department unless **ALL** parties submit on the tentative ruling. If all sides submit on the tentative ruling and advise the court, the tentative ruling shall become the court's final ruling and the prevailing party shall give notice of the ruling and prepare an order for the court's signature if appropriate under California Rules of Court, rule 3.1312.

Non-Appearances: If no one appears for the hearing and the court has not been notified that all parties submit on the tentative ruling, the court shall determine whether the matter is taken off calendar or the tentative ruling becomes the final ruling. The court also may make a different order at the hearing. (*Lewis v. Fletcher Jones Motor Cars, Inc.* (2012) 205 Cal.App.4th 436, 442, fn. 1.)

Appearances: Department C23 conducts non-evidentiary proceedings, such as law and motion hearings, remotely by Zoom videoconference pursuant to Code of Civil Procedure section 367.75 and Orange County Local Rule 375. Any party or attorney, however, may appear in person by coming to Department C23 at the Central Justice Center, located at 700 Civic Center Drive West in Santa Ana, California. All counsel and self-represented parties appearing in-person must check in with the courtroom clerk or courtroom attendant before the designated hearing time.

All counsel and self-represented parties appearing remotely must check-in online through the court's civil video appearance website at

<https://www.occourts.org/media-relations/civil.html> before the designated hearing time. Once the online check-in is completed, participants will be prompted to join the courtroom’s Zoom hearing session. Participants will initially be directed to a virtual waiting room pending the start of their specific video hearing. Check-in instructions and instructional video are available at <https://www.occourts.org/media-relations/aci.html>. The Court’s “Appearance Procedures and Information--Civil Unlimited and Complex” and “Guidelines for Remote Appearances” also are available at <https://www.occourts.org/media-relations/aci.html>. Those procedures and guidelines will be strictly enforced.

Public Access: The courtroom remains open for all evidentiary and non-evidentiary proceedings. Members of the media or public may obtain access to law and motion hearings in this department by either coming to the department at the designated hearing time or contacting the courtroom clerk at (657) 622-5223 to obtain login information. For remote appearances by the media or public, please contact the courtroom clerk 24 hours in advance so as not to interrupt the hearings.

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#	Case Name	Tentative
1.	Funding Metrics, LLC v. Braidwood Ridge Co., Inc. <i>2024-01400522</i>	<p>Before the court is a petition to confirm contractual arbitration award filed by petitioner Funding Metrics, LLC (Petitioner).</p> <p>Petitioner moves to confirm the arbitration award entered on November 29, 2023, against respondents Braidwood Ridge Co., Inc. (Braidwood) and Jin Jung (Jung) (collectively, Respondents).</p> <p>On January 16, 2025, this court denied without prejudice Petitioner’s motion to serve the instant petition on Braidwood through the Secretary of State. The court also denied without prejudice Petitioner’s second application to serve Jung by publication. The court further continued the instant petition to April 17, 2025, to provide further time for Petitioner to serve the petition on Respondents. Petitioner was ordered to file proof of service of the petition, and proof of notice of the continued hearing date, on Respondents, at least 5 court days prior to the hearing. (ROA 35.) No proof of service and no notice of the continued hearing date is found in the court’s files. There also is no indication Petitioner has attempted to re-file a motion to serve Secretary of State or an application to serve by publication, which were previously denied without prejudice.</p>

		<p>A petition to confirm an arbitration award and notice of hearing must be served at least 10 days before the hearing. (Code Civ. Proc., §1290.2.)</p> <p>Because there is still no proof of service of the petition and notice of hearing on Respondents, and Petitioner has been given multiple opportunities to effectuate service, the petition is DENIED WITHOUT PREJUDICE.</p> <p>Petitioner is ordered to give notice of this ruling.</p>
2.	<p>Yassine v. Intact Insurance Specialty Insurance</p> <p><i>2024-01433103</i></p>	<p>The motion to compel arbitration filed by petitioner Alex Yassine (Petitioner) is OFF CALENDAR based on the notice of withdrawal Petitioner filed on April 14, 2025.</p>
3.	<p>In re Ulises Salas</p> <p><i>2025-014636963</i></p>	<p>Before the court is a petition filed by petitioner Peachtree Settlement Funding, LLC (Petitioner) for approval of the transfer of structured settlement payment rights by payee Ulises Salas (Payee). For the reasons set forth below, the petition is CONTINUED TO MAY 15, 2025, AT 2:00 P.M. IN DEPARTMENT C23.</p> <p>Through the underlying transaction Payee seeks to transfer to Petitioner 300 monthly life contingent payments of \$1,274, which would start on April 24, 2036, and end March 24, 2061. These payments total \$382,200 and have a present value of \$118,361.69. In exchange for transferring the right to these monthly payments, Payee would receive a present payment of \$24,000. Accordingly, Payee will receive 20.27 percent of the present value of this payment stream.</p> <p>To approve the proposed transaction, the court is required to make a number of findings to ensure, the transaction does not violate any law, and the transaction is in Payee’s best interest. The court, however, is concerned it cannot make the required findings “[t]he transfer of the structured settlement payment rights is fair and reasonable and in the best interest of the payee, taking into account the welfare and support of his or her dependents.” (Ins. Code. §§ 10137(a), 10139.5(a)(1).)</p> <p>Insurance Code section 10139.5(b) sets for the following non-exhaustive list of factors the court is to consider in evaluating a proposed transfer:</p>

	<p>(1) The reasonable preference and desire of the payee to complete the proposed transaction, taking into account the payee's age, mental capacity, legal knowledge, and apparent maturity level.</p> <p>(2) The stated purpose of the transfer.</p> <p>(3) The payee's financial and economic situation.</p> <p>(4) The terms of the transaction, including whether the payee is transferring monthly or lump sum payments or all or a portion of his or her future payments.</p> <p>(5) Whether, when the settlement was completed, the future periodic payments that are the subject of the proposed transfer were intended to pay for the future medical care and treatment of the payee relating to injuries sustained by the payee in the incident that was the subject of the settlement and whether the payee still needs those future payments to pay for that future care and treatment.</p> <p>(6) Whether, when the settlement was completed, the future periodic payments that are the subject of the proposed transfer were intended to provide for the necessary living expenses of the payee and whether the payee still needs the future structured settlement payments to pay for future necessary living expenses.</p> <p>(7) Whether the payee is, at the time of the proposed transfer, likely to require future medical care and treatment for the injuries that the payee sustained in connection with the incident that was the subject of the settlement and whether the payee lacks other resources, including insurance, sufficient to cover those future medical expenses.</p> <p>(8) Whether the payee has other means of income or support, aside from the structured settlement payments that are the subject of the proposed transfer, sufficient to meet the payee's future financial obligations for maintenance and support of the payee's dependents, specifically including, but not limited to, the payee's child support obligations, if any. The payee shall disclose to the transferee and the court his or her court-ordered child support or maintenance obligations for the court's consideration.</p> <p>(9) Whether the financial terms of the transaction, including the discount rate applied to determine the amount to be paid to the payee, the expenses and</p>
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costs of the transaction for both the payee and the transferee, the size of the transaction, the available financial alternatives to the payee to achieve the payee's stated objectives, are fair and reasonable .

(10) Whether the payee completed previous transactions involving the payee's structured settlement payments and the timing and size of the previous transactions and whether the payee was satisfied with any previous transaction.

(11) Whether the transferee attempted previous transactions involving the payee's structured settlement payments that were denied, or that were dismissed or withdrawn prior to a decision on the merits, within the past five years.

(12) Whether, to the best of the transferee's knowledge after making inquiry with the payee, the payee has attempted structured settlement payment transfer transactions with another person or entity, other than the transferee, that were denied, or which were dismissed or withdrawn prior to a decision on the merits, within the past five years.

(13) Whether the payee, or his or her family or dependents, are in or are facing a hardship situation .

(14) Whether the payee received independent legal or financial advice regarding the transaction. The court may deny or defer ruling on the petition for approval of a transfer of structured settlement payment rights if the court believes that the payee does not fully understand the proposed transaction and that independent legal or financial advice regarding the transaction should be obtained by the payee.

(15) Any other factors or facts that the payee, the transferee, or any other interested party calls to the attention of the reviewing court or that the court determines should be considered in reviewing the transfer.

The court acknowledges the payment stream to be transferred is life contingent, and would cease if Payee dies before it is completed. Nonetheless, the court is very concerned about the low percentage Payee is to receive, especially in light of Payee's age (i.e., 39) and the lack of any information about Payee's health or life expectancy (other than he received disability payments).

		<p>Moreover, the petition reveals a prior transaction transferring some of Payee’s payment rights was approved less than a year ago—i.e., on July 24, 2024—and Payee received \$115,000 in connection with that transfer. Payee’s declaration in support of that petition stated Payee intended to use that money “to make a long-term plan for myself and my family. I have a baby due soon with my fiancé, who I want to marry to this year. In addition, I intend to use the money to move and purchase a reliable vehicle.” (See ROA 11, Ex. 4 to prior petition.) The current petition makes no mention of a fiancé or baby and offers no discussion of how the \$115,000 was used in comparison to its proffered intended use. The prior petition and supporting documents also made no mention of the SSI payments Payee now says he was receiving, but have been stopped.</p> <p>There also is no evidence offered as to whether Payee is likely to require future medical care and treatment for the injuries that were the subject of the settlement and what resources are available to cover those expenses. (See Ins. Code § 10139.5(b)(7).)</p> <p>Based on the foregoing, the current record does not appear sufficient to support a finding the transfer is fair and reasonable, and in the best interest of the payee. The court thus will CONTINUE the hearing as stated above to allow Petitioner an opportunity to submit additional evidence to address the foregoing concerns.</p> <p>Any additional evidence is due at least 9 court days prior to the hearing.</p> <p>Counsel for Petitioner is ordered to give notice of this ruling.</p>
4.	<p>Fernhill Owners Community Association No. 1 v. Garra <i>2019-01069232</i></p>	<p>Before the court is the motion for attorney fees and costs on appeal filed by plaintiff Fernhill Owners Community Association No. 1 (Plaintiff). The motion is GRANTED as set forth below.</p> <p>Plaintiff is entitled to fees on appeal pursuant to Civil Code section 5975, subdivision (c), which states “[i]n an action to enforce the governing documents, the prevailing party shall be awarded reasonable attorney’s fees and costs.” Here, as the court already recognized when it granted Plaintiff’s initial fee motion, the action sought to enforce the Association’s governing documents. Plaintiff also is</p>

the prevailing party as the Court of Appeal affirmed the judgment in its favor in its entirety. (ROA 438.)

“When a contract or a statute authorizes the prevailing party to recover attorney fees, that party is entitled to attorney fees incurred at trial and on appeal.” (*Douglas E. Barnhart, Inc. v. CMC Fabricators, Inc.* (2012) 211 Cal.App.4th 230, 250.)

Defendant Terese Helene Garra (Defendant) does not dispute Plaintiff may recover reasonable fees and costs on appeal. Plaintiff may thus claim fees under the above statutory provision. The only real dispute presented is the amount of fees to be awarded.

The court has broad authority to determine the amount of reasonable fees. (*PLCM Group v. Drexler* (2000) 22 Cal.4th 1084, 1095.) The court may make its determination of the value of the services rendered without the necessity of expert testimony. (*Id.* at p. 1096.) In making its determination, the court should consider a number of factors, including the nature of the litigation, its difficulty, the amount involved, the skill required in its handling, the skill employed, the attention given, the success or failure, and any other circumstances in the case. (*Ibid.*)

Courts apply a lodestar method to calculate reasonable attorney fees. (*Meister v. U.C. Regents* (1998) 67 Cal.App.4th 437, 448-49.) The court determines a lodestar figure based on a careful compilation of the time spent and reasonable hourly compensation of each attorney involved. (*Serrano v. Priest* (1977) 20 Cal.3d 25, 48-49.)

The court finds the hourly rate requested to be reasonable given counsel’s experience and the nature of the dispute. (See Speights Decl., ¶¶ 3, 5.) Defendant does not dispute the reasonableness of counsel’s hourly rate.

In terms of hours expended, the court has reviewed the billing records provided and determines a 15% reduction is warranted due to excessive and redundant efforts for reviewing the status of appeal and conducting research. The court also determines the hours expended for the instant motion should be reduced from 15 hours to 10 hours. Aside from the foregoing, the remainder of

		<p>the fees claimed appears generally reasonable given the nature of the litigation and procedural history of this case. Defendant has not shown further reduction is warranted. With the foregoing reductions, the fee award is \$22,444.12 (\$28,022.50 minus \$4,203.38 minus \$1,375).</p> <p>Plaintiff's unchallenged request for costs in the amount of \$1,155.11 is GRANTED. (California Rules of Court, rule 8.278; <i>Bach v. County of Butte</i> (1989) 215 Cal.App.3d 294, 308.)</p> <p>Based on the foregoing, the motion for attorney fees and costs on appeal is GRANTED to award Plaintiff fees and costs in the total amount of \$23,599.23 (\$22,444.12 in fees + \$1,155.11 in costs).</p> <p>Plaintiff's request for judicial notice is GRANTED as to the existence of and legal effects of the records, but not as to the truth of any disputed facts asserted therein. (Evid. Code §452(d); <i>Fontenot v. Wells Fargo Bank, NA</i> (2011) 198 Cal.App.4th 256, 264; <i>Arce v. Kaiser Foundation Health Plan, Inc.</i> (2010) 181 Cal.App.4th 471, 482.)</p> <p>Plaintiff is ordered to submit a proposed judgment in accordance with this ruling.</p> <p>Counsel for Plaintiff is to give notice.</p>
5.	<p>In re 435 West Center Street #229, Anaheim, CA 92805</p> <p>2024-01376871</p>	<p>Before the court is the motion of claimant Jeffrey Luzzi (Claimant) to claim surplus proceeds of trustee's sale that were deposited with the court by petitioner Clear Recon Corp. This is a renewed motion after the court denied the prior motion on November 21, 2024.</p> <p>The hearing on the renewed motion is CONTINUED TO MAY 22, 2025, AT 2:00 P.M., IN DEPARTMENT C23. Although the proof of service Claimant filed (ROA 65) shows the renewed motion was served on a number of entities that may have or may have had claims to the surplus funds, the motion was not served on Umpqua Bank, which may be the only other party potentially asserting a claim to the remaining surplus funds. The motion was served on Sterling Saving Bank DBA Argent Bank, which appears to be Umpqua's predecessor in interest, the court must have sufficient evidence showing the motion was served on all potential claimants identified by the trustee before reaching the merits of the motion.</p>

		<p>Accordingly, the motion is continued as stated above for Claimant to re-serve the motion on all parties, including Umpqua, to provide statutory notice of the continued hearing. Claimant is ordered to file a new proof of service at least nine court days before the continued hearing date.</p> <p>Finally, Claimant is ordered to give notice of this ruling.</p>
6.	<p>Clark v. Galaviz 2020-01136803</p>	<p>Before the court is the motion to seal brought by plaintiff Holly Clark, through her guardian ad litem Brandi Clark (Plaintiff). The motion is DENIED as set forth below.</p> <p>On October 27, 2021, a notice of settlement was filed in this action. On May 2, 2022, this action was called for a hearing on an order to show cause re dismissal of settled case, and there were no appearances. The court therefore dismissed the case. There has been no motion to set aside the dismissal. "When a dismissal has properly been filed, the trial court loses jurisdiction to act in the case." (<i>Tire Distributors, Inc. v. Cobrae</i> (2005) 132 Cal.App.4th 538, 542.)</p> <p>In addition to the court lacking jurisdiction to grant this motion, the motion lacks merit.</p> <p>"If the party seeking the sealing order files the documents with the court before the motion to seal is granted, the right to move for an order sealing the documents is waived. The court cannot entertain a later motion to seal documents that are already a matter of public record. (<i>Savaglio v. Wal-Mart Stores, Inc.</i> (2007) 149 Cal.App.4th 588, 601.)" (Weil & Brown, Cal. Prac. Guide: Civ. Prod. Before Trial (The Rutter 2025) at ¶9:417.5.) Here, Plaintiff seeks to seal documents at ROA 1-38 which were filed in the public record between March 5, 2020, and May 3, 2022, and have remained available to the public. Not only was this motion brought after all documents were filed in the public record, but this motion was brought nearly three years after the final document was filed without any explanation for this delay.</p> <p>Furthermore, the proposed sealing is not narrowly tailored as required by California Rules of Court, rule 2.550(d). Here, Plaintiff seeks to seal numerous documents prepared by the court, including minute orders, proofs of service, and e-filing rejection notices.</p>

		<p>Based on the foregoing, the motion is DENIED.</p> <p>Counsel for Plaintiff is ordered to give notice of this ruling.</p>
7.	<p>Villas Scottsdale II Homeowners' Association, Inc. v. Nicole Teresa Fusaro</p> <p>2023-01356720</p>	<p>Before the court is the motion for attorney fees filed on February 13, 2025, by plaintiff and judgment creditor Villas Scottsdale II Homeowners' Association, Inc. (Plaintiff). The motion seeks an order awarding \$5,917.99 for attorney fees and costs incurred in this action, to be added to the domesticated judgment against defendant Nicole Teresa Fusaro (Fusaro).</p> <p>If a sister-state judgment provided for recovery of costs and attorney fees incurred in collecting the judgment, that becomes enforceable as a part of that decree in the domesticated judgment in California. (<i>Aspen Internat. Capital Corp. v. Marsch</i> (1991) 235 Cal.App.3d 1199, 1205–1206.) Here, Plaintiff has shown its Arizona judgment included the right to claim reasonable attorney fees and costs incurred in enforcement. (ROA 2, ¶ 7.)</p> <p>The motion seeks \$5,917.99 in attorney fees and costs based on the invoices describing and identifying the specific work for which fees are sought and the costs incurred. The court finds the hourly rates for the attorney time to be reasonable. With the exception of the 0.5 hours, or \$187.50 in attorney fees, spent in preparing the initial application for publication that the court rejected and found insufficient, all time and costs appear reasonable. Accordingly, the motion is GRANTED, and Plaintiff is awarded \$5,730.49 in attorney fees and costs against Fusaro.</p> <p>Plaintiff is ordered to submit a proposed order and to give notice of this ruling.</p>
8.	<p>Swift Financial, LLC v. Woman's Recovery Center, LLC</p> <p>2023-01354283</p>	<p>Before the court is the motion of plaintiff Swift Financial, LLC as Servicing Agent for WebBank (Plaintiff), to (1) enter the stipulated judgment against defendant Women's Recovery Center, LLC d/b/a Sunsets Recovery Center (Women's Recovery Center) and (2) amend the judgment entered on April 2, 2014, so there is a final judgment against both Women's Recovery Center and defendant Ryan Schrier (Schrier), jointly and severally. As set forth below, the motion is GRANTED.</p>

"Code of Civil Procedure section 664.6 provides a summary procedure to enforce a settlement agreement by entering judgment pursuant to the terms of the settlement." (*Hines v. Lukes* (2008) 167 Cal.App.4th 1174, 1182.) "If the court determines that the parties entered into an enforceable settlement, it should grant the motion and enter a formal judgment pursuant to the terms of the settlement." (*Ibid.*)

Plaintiff and Woman's Recovery Center executed a Settlement Agreement and Release (Settlement Agreement) which stated (1) Woman's Recovery Center agreed to pay Plaintiff a total sum of \$93,600.00 by paying 36 consecutive monthly payments of \$2,600.00 commencing April 15, 2024 (Schlechter Decl. ¶ 7, Exh. 2 at Exh. A), and (2) in the event of an uncured default by Woman's Recovery Center and at the request of Plaintiff, the parties agree to an ex parte entry of stipulated judgment entered in the amount of the unpaid balance (Schlechter Decl. ¶ 7, Exh. 2 at Exh. A).

The Settlement Agreement provides for judgment in favor of Plaintiff and Woman's Recovery Center in the event of a default. (Schlechter Decl. ¶ 7, Exh. 2 at Exh. A.) Plaintiff has established that default. (See Schlechter Decl., ¶¶ 9-13, Exh. 3.) Woman's Recovery Center has not filed an opposition and, thus, does not dispute Woman's Recovery Center is in default or contend it timely cured. Plaintiff is therefore entitled to judgment in its favor per the terms of the Settlement Agreement and stipulation for entry of judgment. (See Schlechter Decl. ¶ 7, Exh. 2 at Exh. A.)

The motion for entry of judgment therefore is **GRANTED.**

The court previously entered judgment against Schrier in the total amount of \$102,564.41 on April 2, 2024. (ROA 23.) The matter was dismissed as to Woman's Recovery Center with a retention of jurisdiction under Code of Civil Procedure section 664.6. By this motion Plaintiff now also seeks a judgment against Woman's Recovery Center as stated above. This case, however, may only have a single judgment.

The existing judgment against Schrier therefore must be amended to include the judgment against

		<p>Woman’s Recovery Center in accordance with the Settlement Agreement (which includes a credit of \$10,400 for payment Woman’s Recovery Center has made). Accordingly, the court will enter an amended judgment against both Woman’s Recovery Center and Schrier, jointly and severally, in the amount of 83,826.04, which includes all interest accrued and payments made.</p> <p>Plaintiff is ordered to submit a proposed amended judgment consistent with this ruling and that includes a breakdown of all components making up the judgment, i.e., principal, interest, etc.</p> <p>Plaintiff is further ordered to give notice of this ruling.</p>
9.	<p>ERN Enterprises, Inc. v. Pipeline East Dallas, LLC <i>2025-01457551</i></p>	<p>Before the court is the petition to compel arbitration brought by petitioner ERN Enterprises, Inc. (Petitioner). Pursuant to Code of Civil Procedure sections 1281.2 and 1290, the petition is GRANTED. Respondent Pipeline East Dallas, LLC (Respondent) is ordered to arbitrate Petitioner’s claim for breach of the Claim Representation Agreement. Additionally, this action is ordered stayed, pending completion of arbitration. (Code Civ. Proc., § 1281.4.)</p> <p>Petitioner sufficiently served Respondent pursuant to the requirements of Code of Civil Procedure section 1290.4. A review of the applicable agreement indicates the parties did not agree to a form of service. (§3 of Anu Norwood Declaration and Exhibit 1 thereto.) Consequently, the service requirements of Code of Civil Procedure section 1290.4, subdivision (b) apply.</p> <p>Per the proof of service filed on March 5, 2025, Respondent was personally served with the petition and supporting papers, on February 10, 2025, via an agent for service of process. (ROA No. 13.) A proof of service filed on March 18, 2025, demonstrates notice of this hearing was personally served in the same manner on March 10, 2025. (ROA No. 21.)</p> <p>The above fully complies with Code of Civil Procedure section 1290.4, subdivision (b)(1). Additionally, although not necessary, Petitioner complied with the service requirements of Code of Civil Procedure section 1290.4, subdivision (b)(2). (See ROA Nos. 11 and 19.)</p>

"On petition of a party to an arbitration agreement alleging the existence of a written agreement to arbitrate a controversy and that a party to the agreement refuses to arbitrate that controversy, the court shall order the petitioner and the respondent to arbitrate that controversy if it determines that an agreement to arbitrate the controversy exists, unless it determines that: (a) The right to compel arbitration has been waived by the petitioner; or (b) Grounds exist for rescission of the agreement." (Code Civ. Proc., § 1281.2, subs. (a) & (b).)

"The allegations of a petition [to compel arbitration] are deemed to be admitted by a respondent duly served therewith unless a response is duly served and filed." (Code Civ. Proc., § 1290.)

"A response shall be served and filed within 10 days after service of the petition except that if the petition is served in the manner provided in paragraph (2) of subdivision (b) of Section 1290.4, the response shall be served and filed within 30 days after service of the petition." (Code Civ. Proc., § 1290.6.)

Respondent failed to file a response to the petition.

Consequently, Respondent has admitted all allegations in the petition, including the existence of a binding arbitration agreement which applies to Petitioner's claim for breach of contract and Respondent's failure to arbitrate. (See Petition: 3:3-16, 3:21-25, 4:5-9, 4:13-23 and 7:5-18; see also Code Civ. Proc., § 1290.)

Included within the moving papers is a Claimant Representation Agreement between Pipeline East Dallas, LLC and ERN Enterprises, Inc. (¶3 of Anu Norwood Declaration and Exhibit 1 thereto.) The agreement includes signatures on behalf of both entities, along with an arbitration provision which states: "In the event a dispute arises between the Parties hereto, the Parties agree to mediate the dispute prior to the filing of any action or commencement of arbitration. In the event the dispute is not resolved in mediation, then the parties agree to resolve the dispute by means of binding arbitration before the Judicial Arbitration & Mediation Services (JAMS), Orange County, California" (*Ibid.* at §12)

"If the moving party meets its initial prima facie burden and the opposing party does not dispute the existence of the arbitration agreement, then nothing more is required for the moving party to meet its burden of persuasion." (*Gamboa v. Northeast Community, Clinic* (2021) 72 Cal.App.5th 158, 165, [disagreed with by *Ramirez v. Golden Queen Mining Company, LLC* (2024) 102 Cal.App.5th 821, on a different point].)

Here, as Respondent did not file a response or opposition to this petition, there is no dispute it validly executed the above agreement, which contains the arbitration provision.

Similarly, there is no dispute Petitioner's alleged claim for breach of contract is encompassed within the arbitration agreement. In addition to the agreement broadly referencing "any dispute," Petitioner has demonstrated the specific dispute herein arises from the terms of the Claimant Representation Agreement – the contract which contains the arbitration provision. Per Petitioner, "[i]n the CRA, Pipeline agreed to compensate and pay ERN on recoveries according to the type of claim pursuant to the percentages in Section 4 of the CRA." (¶4 of Anu Norwood Declaration.) "ERN performed the contracted-for services of regulatory claimant representation and advocacy for uncompensated medical claims . . . [and] submitted invoices to Pipeline . . . but Pipeline failed and refused to pay the invoices." (¶6 of Anu Norwood Declaration.)

In addition to the above, the agreement makes clear jurisdiction and venue in Orange County is appropriate. (¶3 of Anu Norwood Declaration and Exhibit 1 thereto, at §12.)

Finally, Petitioner has established that Respondent refused to mediate, prior to arbitration. (¶8 of Anu Norwood Declaration ["On October 21, 2024, counsel for ERN sent a demand for mediation to Pipeline pursuant to Paragraph 12 of the CRA, which was ignored by Pipeline"].) Likewise, Respondent has refused to arbitrate, such that an order compelling arbitration is required. (¶3 of Zuetel Declaration and Exhibit 5 thereto.)

A party opposing the petition bears the burden of proving by a preponderance of the evidence any fact necessary to its defense. (*Engalla v. Permanente*

		<p><i>Medical Group, Inc.</i> (1997) 15 Cal.4th 951, 972.) As a response and opposition have not been filed, Respondent has failed to demonstrate any defense to arbitration.</p> <p>Petitioner’s counsel is ordered to give notice.</p>
10.	<p>Wesco Insurance Company v. BC Home Builders</p> <p>2020-01169405</p>	<p>Before the court is the motion for entry of judgment in accordance with written settlement agreement. The motion is GRANTED as set forth below.</p> <p>On November 10, 2020, plaintiff Wesco Insurance Company (Plaintiff) filed a complaint alleging breach of contract against defendant BC Home Builders, a corporation and dba Battres Construction (Defendant). On March 2, 2022, the parties entered into a written settlement agreement and notice of settlement was filed. (ROA 93) A copy of the settlement agreement is attached as Exhibit A to the motion.</p> <p>The settlement agreement called for a judgment to be entered in favor of Plaintiff and against Defendant, the entry of which was “stayed unless there be an event of default under this Agreement and failure to cure as hereinafter provided.” (Settlement Agreement at Section 2.A.ii) Wesco states Defendant has defaulted and failed to cure despite being provided notice of the default. (Aires Decl. ¶4.) A copy of the written notice to cure, as required by section 3.A of the Settlement Agreement, is attached as Exhibit B to the motion.</p> <p>Code of Civil Procedure section 664.6 “was enacted to provide a summary procedure for specifically enforcing a settlement contract without the need for a new lawsuit.” (<i>Weddington Productions, Inc. v. Flick</i> (1998) 60 Cal.App.4th 793, 809.) Personal consent to the material terms of the settlement by each of the parties is a statutory prerequisite to a 664.6 motion. (<i>Critzer v. Enos</i> (2010) 187 Cal.App.4th 1242, 1257-1258.)</p> <p>“A court ruling on a motion under Code of Civil Procedure section 664.6 must determine whether the parties entered into a valid and binding settlement . . . A settlement is enforceable under section 664.6 only if the parties agreed to all material settlement terms . . . The court ruling on the motion may consider the parties’ declarations and other evidence in deciding what terms the parties agreed to, and the court’s factual findings in this regard are reviewed under the substantial evidence standard . . . If the court</p>

		<p>determines that the parties entered into an enforceable settlement, it should grant the motion and enter a formal judgment pursuant to the terms of the settlement. The statute expressly provides for the court to `enter judgment pursuant to the terms of the settlement.'" (<i>Hines v. Lukes</i> (2008) 167 Cal.App.4th 1174, 1182-1183 [internal citations omitted].)</p> <p>Here, Plaintiff has established there was a valid and binding settlement agreement of the case and the parties agreed to all material settlement terms. The agreement is signed by both parties and was entered into during the pendency of litigation. Plaintiff has established Defendant breached the agreement. Plaintiff states the total amount currently owed on the judgment is "the principal sum of \$120,893.89, together with prejudgment interest of \$88,337.48 (which is \$33.11 per day from December 27, 2017 through April 17, 2025 [2,668 days] using the legal rate of 10% per annum), plus the principal sum of \$21,360.29, together with prejudgment interest of \$15,438.15 (which is \$5.85 per day from January 25, 2018 through April 17, 2025 [2,639 days] using the legal rate of 10% per annum, plus costs of suit of \$535.00, and \$1,500.00 as and for the attorney's fees incurred in seeking judgment, less credits for payment(s) made of \$101,158.56, for a total judgment of \$146,906.25." (Aires Dec. ¶15)</p> <p>Defendant has not filed an opposition and does not dispute Plaintiff's claims.</p> <p>Accordingly, the Motion is GRANTED.</p> <p>Plaintiff is ordered to submit a proposed judgement.</p> <p>Plaintiff's counsel is ordered to give notice of this ruling.</p>
11.	<p>Claim of Garcia 2024-01429125</p>	<p>Before the court is the motion for default and default judgment of forfeiture filed by petitioner People of the State of California (Petitioner). As set forth below, the motion is GRANTED.</p> <p>The court finds notice has been provided as required under Health and Safety Code section 11488.4. Real parties in interest Kevin Garcia and Irving Garcia were personally served with both a receipt for seizure and personal notice of intended forfeiture and the petition in the present case, including a copy of a blank "Claim Opposing Forfeiture" form with each of those notices. Petitioner also has provided evidence the notice of</p>

		<p>forfeiture was published once a week, for three successive weeks in the Orange County Reporter, as the property was seized in Orange County. All notices meet the statutory requirements set out in Health and Safety Code section 11488.4(f).</p> <p>No claim has been filed by either real party in interest Kevin Garcia or real party in interest Irving Garcia.</p> <p>Petitioner offers two declarations in support of the motion from investigators with the Orange County Sheriff's Department who conducted the search of the property that resulted in the seizure and interviewed the two real parties in interest. Based on the uncontroverted evidence, the court finds Petitioner has established a prima facie case in support of the petition for forfeiture, pursuant to Health and Safety Code section 11488.4(k) and 11488.5(b)(1). The motion is GRANTED, and default judgment is entered, distributing the property as set forth in Health and Safety Code section 11489.</p> <p>Petitioner is ordered to give notice and to submit a proposed judgment or order.</p>
12.	<p>The Cadle Company v. Frear <i>2025-01452135</i></p>	<p>The order to show cause hearing on the application for order for sale of dwelling is CONTINUED TO MAY 29, 2025, AT 2:00 P.M., IN DEPARTMENT C23, at the joint request of the parties.</p>
13.	<p>In re 12892 Lampson Ave., Garden Grove, CA 92840 <i>2024-01410035</i></p>	<p>Before the court are two claims for surplus funds. The first is a motion for claim of surplus funds filed by Anthony Cain and Kitty Ho Cain (collectively, Cains). As set forth below, the Cains' motion is DENIED. The second is a motion for claim of surplus funds filed by Trung Van Ho and Huong-Duong Ho (collectively, Hos). The Hos' motion is GRANTED as set forth below.</p> <p>On March 6, 2025, the court granted the unopposed petition by petitioner National Default Servicing Corporation (National) to deposit surplus funds in the amount of \$472,799.24 resulting from the December 11, 2023 trustee's sale (Trustee's Sale) of the real property located at 12892 Lampson Avenue, Garden Grove, California 92840 (Property). On March 10, 2025, \$472,799.24 in surplus funds were deposited by Tiffany & Bosco, P.A.</p> <p>"Within 90 days after deposit with the clerk, the court shall consider all claims filed at least 15 days</p>

before the date on which the hearing is scheduled by the court, the clerk shall serve written notice of the hearing by first-class mail on all claimants identified in the trustee's declaration at the addresses specified therein The court shall distribute the deposited funds to any and all claimants entitled thereto." (Civ. Code, § 2924j(d).)

On March 11, 2025, the clerk gave notice pursuant to Civil Code Section 2924j(d) by mail to all potential claimants identified by Petitioner as reflected on the proof of service for the amended petition at attachment 13. The notice explained all claims relating to the surplus funds must be filed with the court at least 15 days prior to today's hearing. The only claims received are those by the Cains and by the Hos.

The Cains' Motion

The Cains filed their motion claiming the surplus funds on August 30, 2024. Their motion was initially set for hearing on December 5, 2024, and then continued to March 6, 2025, and again continued to April 17, 2025. In their motion, the Cains represent they hold a power of attorney for the Hos, the owners of the Property before the Trustee's Sale, and they therefore are entitled to the surplus funds. The Cains, however, are not filing the claim on behalf of the Hos as their attorneys-in-fact, but instead are making a claim for their own benefit. The Cains have not shown they are entitled to the surplus funds under Code of Civil Procedure §2924k(a). Accordingly, their motion for surplus funds is **DENIED**.

The Hos' Motion

In their motion, the Hos assert they "are entitled to the surplus funds by virtue of our interest in the property as the trustors of the subject property when the trustee's sale took place." (Hos' Decl. at ¶9.)

Civil Code section 2924j(d) requires the court to "distribute the deposited funds to any and all claimants entitled thereto." Civil Code section 2924k requires the distribution of the funds be made in the following order of priority: (1) To the costs and expenses of exercising the power of

		<p>sale and of sale, including the payment of the trustee's fees and attorney's fees permitted pursuant to subdivision (b) of Section 2924d and subdivision (b) of this section; (2) To the payment of the obligations secured by the deed of trust or mortgage which is the subject of the trustee's sale; (3) To satisfy the outstanding balance of obligations secured by any junior liens or encumbrances in the order of their priority; (4) <u>To the trustor or the trustor's successor in interest.</u></p> <p>According to Petitioner, the costs and expenses of the trustee sale have been paid and the mortgage was paid off. There do not appear to be any other liens or encumbrances on the property. As the court has not received any other valid claims for the surplus funds, the motion by the Hos for the \$472,799.24 in surplus funds which were deposited by Tiffany & Bosco, P.A. is GRANTED.</p> <p>Although the Hos have asked the clerk to be directed to issue a check payable to their attorney for the amount of the surplus funds, Civil Code §2924k(a)(4) requires the surplus funds be distributed "to the trustor or the trustor's successor in interest." The Hos' attorney, CDLG, PC, is neither the trustor nor successor to the trustor.</p> <p>The clerk therefore is ordered to distribute the surplus funds in the amount of \$472,799.24 by check payable to Trung Van Ho and Huong-Duong Ho, and sent to CDLG, PC, 2973 Harbor Blvd., Suite 594, Costa Mesa, California 92626-3912.</p> <p>The Hos are ordered to give notice and submit a proposed order.</p>
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