

**GENTILE v. JOHNSON, et al**

**23CV46817**

**PLAINTIFF'S MOTION TO EXPUNGE LIEN;  
PLAINTIFF'S APPLICATION FOR ORDER FOR ISSUANCE OF  
WRIT OF ATTACHMENT**

At the hearing on February 9, 2024, both counsel appeared and notified the Court that a settlement had been reached and requested a one-week continuance to finalize the settlement agreement and file a Notice of Settlement and/or Dismissal and vacate the hearing on these motions. Nothing has been filed. The Court on its own motion continues these matters to March 1, 2024, at 9:00 a.m. in Department 2. Counsel are directed to file a Notice of Settlement and/or Dismissal to vacate that hearing by February 23, 2024, at 3:00 p.m. In the event neither has been filed, these matters will proceed for ruling on 3/1/24.

The Clerk shall provide notice of this Ruling to the parties forthwith. No further formal order is required.

**KAISER v. ATKINS, et al**

**20CV44871**

**PLAINTIFF'S MOTION TO CONFIRM THE REFEREE'S  
REPORT, APPORTION COSTS OF PARTITION AND REQUEST  
FOR FINAL JUDGMENT**

A court trial was held on March 6, 2023, where, inter alia, the court ordered a partition of jointly owned real property by sale, and designated Ms. Darci Watson as referee to sell the real property. The powers of the referee were outlined in the Interlocutory Order After Trial filed on March 20, 2023, and subsequent orders.

The Court grants plaintiff's Request for Judicial Notice.

Plaintiff's motion, memorandum of points and authorities, declarations, items judicially noticed, defendant's record of non-involvement and non-cooperation, and the absence of any objections or opposition all support the Motion to confirm the Referee's sale report. (CCP §§ 873.290, 873.750, and 874.010 et. seq.)

The Court has independently considered the referee's findings and recommendations and confirms the report.

Plaintiff's Motion is GRANTED in toto.

The Clerk shall provide notice of this Ruling to the parties forthwith. Plaintiff to submit a formal order and final judgment in conformity with this ruling.

**[10:00 a.m.]**

**MATTER OF DAVID J. SILVEIRA REVOCABLE LIVING TRUST**

**Case No. 21PR8357**

**PETITIONERS' MOTION FOR LEAVE TO EXTEND TIME  
TO COMPLETE DISCOVERY**

This matter includes four consolidated probate petitions and one related civil complaint. Petitioners request that the Court extend their time to conduct further discovery by at least six (6) additional months from the current Court-ordered non-expert discovery deadline or from the date that the motion is heard.

(Calaveras County Local Rule 3.3.7 requires the inclusion of the following language on all matters noticed for the Law & Motion calendar:

Pursuant to Local Rule 3.3.7, the Court will make a tentative ruling on the merits of this matter by 2:00 p.m. the court day before the hearing. The complete text of the tentative ruling may be accessed on the Court's website or by calling 209-754-6285 and listening to the recorded tentative ruling. If you do not call all other parties and the Court by 4:00 p.m. the court day preceding the hearing, no hearing will be held and the tentative ruling shall become the ruling of the court.

Petitioners substantially comply this rule, although making a typographical error in referring to it as "Local Rule 7.3" and using an older version.)

Code of Civil Procedure (CCP) § 2024.020(a) requires discovery proceedings to be completed on or before 30 days before trial, and discovery motions to be heard 15 days before trial. Parties may stipulate to extend the time. (CCP § 2024.060.) Otherwise, on motion of any party, the court may allow discovery proceedings or discovery motions to be heard after the cut-off dates; or, it may reopen discovery after the trial has been continued to a new date. (CCP §2024.050(a); *Pelton-Shepherd Indus., Inc. v. Delta Packaging Products, Inc.* (2008) 165 Cal.App.4<sup>th</sup> 1568, 1588.) In the present case, the Court directed the parties to conclude all non-expert discovery by January 12, 2024, in an attempt to foster complete information for both sides to allow settlement efforts to either come to fruition or allow a trial date to be set; however, the Court also expressed that if that deadline proved to be premature, the target deadline was without prejudice to reconsider upon noticed motion, as is now before the Court.

The Court finds that the facts and equities as argued in the Motion are persuasive that the target was in fact premature, but does not feel another six months is necessary for all necessary non-expert discovery to be conducted.

Petitioners' Motion for Leave to Extend Time to Complete Discovery is **GRANTED**, with the restriction to an additional four (4) months from the date of this Ruling. All non-expert discovery is to be completed by June 14, 2024.

The Court sets a final Mandatory Settlement Conference for July 1, 2024, at 8:30 a.m. in Department 2. Any updated settlement conference statement is to be filed by 3:00 p.m. on June 21, 2024. In the event the MSC does not result in a global settlement, trial will then be set.

The Clerk shall provide notice of this Ruling to the parties forthwith. Petitioners are to submit a formal order pursuant to Rule of Court 3.1312 in conformity with this ruling.