These are the tentative rulings for civil law and motion matters set for Friday, July 5, 2019, at 8:30 a.m. in the Placer County Superior Court. The tentative ruling will be the court's final ruling unless notice of appearance and request for oral argument are given to all parties and the court by 4:00 p.m. today, Wednesday, July 3, 2019. Notice of request for oral argument to the court must be made by calling (916) 408-6481. Requests for oral argument made by any other method will not be accepted. Prevailing parties are required to submit orders after hearing to the court within 10 court days of the scheduled hearing date, and after approval as to form by opposing counsel. Court reporters are not provided by the court. Parties may provide a court reporter at their own expense.

NOTE: All telephone appearances are governed by Local Rule 20.8. More information is available at the court's website, www.placer.courts.ca.gov.

EXCEPT AS OTHERWISE NOTED, THESE TENTATIVE RULINGS ARE ISSUED BY COMMISSIONER GLENN M. HOLLEY AND IF ORAL ARGUMENT IS REQUESTED, ORAL ARGUMENT WILL BE HEARD IN DEPARTMENT 31, LOCATED AT 10820 JUSTICE CENTER DRIVE, ROSEVILLE, CALIFORNIA.

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1. M-CV-0067021 State Farm Mutual Auto Insurance vs. Alger, Wyatt

Appearance required on July 5, 2019, at 8:30 a.m. in Department 31.

2. S-CV-0040035 Bakir, Nasrin vs. Bakir, Raed N., et al

The motion for summary judgment is dropped as no moving papers were filed with the court.

3. S-CV-0040319 People of the State of Calif. vs. $47,315.83

The motion for summary judgment is continued by agreement of the parties to August 30, 2019, at 8:30 a.m. in Department 31.

4. S-CV-0040629 Scheiber Ranch Properties, LP, et al vs. City of Lincoln

The motion to conduct additional discovery is continued to July 25, 2019, at 8:30 a.m. in Department 42 to be heard by the Honorable Charles D. Wachob.

5. S-CV-0040667 Stiegmann, Douglas vs. Sunworks, Inc.

The motion for summary judgment or adjudication is continued to July 12, 2019, at 8:30 a.m. in Department 31. The court finds good cause to permit the motion to be heard within 30 days of the scheduled trial date.

6. S-CV-0040825 Essential Mech. Svcs., Inc. vs. Pacific Air Cond. & Heating, Inc.

The demurrer to first amended complaint is dropped in light of the order staying the action entered June 27, 2019.

7. S-CV-0041191 Mead, Trever vs. Bishop's Entertainment Enterprises, LLC

Application of Thomas Sheehan to Appear as Counsel Pro Hac Vice

The application of Thomas Sheehan to appear as counsel *pro hac vice* is **continued to August 2, 2019, at 8:30 a.m. in Department 31**.

There are several procedural defects with the application. First, Mr. Sheehan has not submitted a verified application as required by California Rules of Court, rule 9.40(c)(1). Second, the application does not include information regarding the dates of admission for each court to which the applicant has been admitted to practice. Cal. R. Ct., rule 9.40(d)(2). Finally, the proof of service for the motion does not comply with Rule 9.40(c)(1) as the San Francisco office of the California State Bar is not listed as being served with the application.

The matter is continued to afford Mr. Sheehan time to remedy these deficiencies through submission of an amended application. Mr. Sheehan shall also file and serve notice of the continued hearing date on all parties and the San Francisco office of the California State Bar.

Application of Ryon Yemm to Appear as Counsel Pro Hac Vice

The application of Ryon Yemm to appear as counsel *pro hac vice* is **continued to August 2, 2019, at 8:30 a.m. in Department 31**.

There are several procedural defects with the application. First, Mr. Yemm has not submitted a verified application as required by California Rules of Court, rule 9.40(c)(1). Second, the application does not include information regarding the dates of admission for each court to which the applicant has been admitted to practice. Cal. R. Ct., rule 9.40(d)(2). Finally, the proof of service for the motion does not comply with Rule 9.40(c)(1) as the San Francisco office of the California State Bar is not listed as being served with the application.

The matter is continued to afford Mr. Yemm time to remedy these deficiencies through submission of an amended application. Mr. Yemm shall also file and serve notice of the continued hearing date on all parties and the San Francisco office of the California State Bar.

8. S-CV-0042509 Zairis, Jeanie, et al vs. Kaiser Foundation Hospitals, et al

The petition to compel arbitration is continued to July 19, 2019, at 8:30 a.m. in Department 31.

9. S-CV-0042799 Wright, Shirley, et al vs. Likely Land & Livestock Co., Inc.

Motion to Change Venue to Modoc County

Defendants' motion to change venue to Modoc County is denied.

Where defendants seek to transfer venue based on the assertion that the action was filed in the wrong court, defendants bear the burden to demonstrate that plaintiff's venue selection is not proper under any applicable statutory grounds. *Fountaine v. Superior Court* (2009) 175 Cal.App.4th 830, 836. Where, as here, plaintiff's complaint joins several separate causes of action, including both local and transitory claims, the transitory action controls as to venue. *Central Bank v. Superior Court* (1973) 30 Cal.App.3d 913, 917-918. Transitory actions are subject to the general rule of venue that the action be tried in the county of defendant's residence. Under Code of Civil Procedure section 395(a), "[e]xcept as otherwise provided by law and subject to the power of the court to transfer … the county where the defendants or some of them reside at the commencement of the action is the proper court for the trial of the action." In an action against several properly-joined defendants, residing in different counties, plaintiff may choose any proper county as the venue for the action. *Monogram Co. of Cal. v. Kingsley* (1951) 38 Cal.2d 28, 34.

An action against a corporation is triable either in the county where the corporation has its principal place of business, or where the contract was made or to be performed, or where the obligation or liability arose, or where the breach occurred. Code Civ. Proc. § 395.5. Defendant bears the burden of showing venue is improper under all grounds listed in Code of Civil Procedure section 395.5. *Karson Industries v. Superior Court* (1969) 273 Cal.App.2d 7, 8-9. As admitted by the moving parties, defendant Placer Title Company, a California corporation, has its principal place of business in Placer County. As venue is proper as to this defendant, co-defendants have no right to compel transfer to their residence. *Monogram Co. of Cal. v. Kingsley, supra*, 38 Cal.2d at 34.

Defendants' alternative request to transfer venue pursuant to Code of Civil Procedure section 397, based on the convenience of witnesses and the interests of justice, also fails. The motion is premature as not all defendants have answered the complaint. Code Civ. Proc. § 396b(d); *Buran Equipment Co., Inc. v. Superior Court* (1987) 190 Cal.App.3d 1662, 1665. Further, defendants fail to submit admissible evidence identifying the names of witnesses expected to testify for both parties, the substance of their expected testimony, whether the witness has been deposed or given a statement regarding the facts of the case, the reasons why it would be inconvenient for the witnesses to appear locally, and the reasons why the ends of justice would be promised by the transfer. *Juneau v. Juneau* (1941) 45 Cal.App.2d 14, 16. Defendants identify no nonparty witnesses who would be inconvenienced by trial of this action in Placer County. *See Id*; *Wrin v. Ohlandt* (1931) 213 Cal. 158, 160. The parties' conveniences, including the conveniences of employees of a party, are generally not considered, absent extraordinary circumstances. *Lieberman v. Superior Court* (1987) 194 Cal.App.3d 396, 401; *Stute v. Burinda* (1981) 123 Cal.App.3d Supp. 11, 17.

Based on the foregoing, the motion to transfer venue is denied.

Motion for Preference

Plaintiffs' motion for preference is **continued to July 26, 2019, at 8:30 a.m. in Department 31**.

The motion to transfer venue operated as a stay of any other motion or proceeding then pending or thereafter filed. *Pickwick Stages System v. Superior Court* (1934) 138 Cal.App. 448, 449. In light of the denial of the motion to transfer venue, the motion for preference is continued to afford defendants the opportunity to file a substantive opposition. Defendants may file and serve opposition to the motion on or before July 15, 2019. Plaintiffs may file and serve a reply brief on or before July 19, 2019.

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