# TENTATIVE RULINGS

**FOR: September 10, 2025**

If you do not see a tentative ruling for a scheduled matter, then attendance at the hearing is required.

**Remote appearances via Zoom are optional.** Please use Zoom at the links listed below.

If you have cases scheduled in both courtrooms at the same time, first log-in to the Zoom session for the department that has your quickest matter(s), and upon check-in, ask the clerk to email the clerk in the other department to advise that you will be late to the other Zoom session.

Dept. A Zoom
**Join by Video (Preferred)**
https://www.zoomgov.com/j/1601453113?pwd=XpBIIa8kBiCpGb0ukQyabkmCrgDdWM.1
**Join by Phone:** 833 568 8864 or 833 435 1820 **Meeting ID:** 160 145 3113 **Password:** 704959

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**Court Reporting Services** – The Court does not provide official court reporters in proceedings for which such services are not legally mandated. Parties are responsible for either making the appropriate request in advance or arranging for their own private court reporter. Go to http://napacountybar.org/court-reporting-services/ for information about local private court reporters. Attorneys or parties must confer with each other to avoid having more than one court reporter present for the same hearing.

**"Recording Court proceedings (whether by Zoom's AI Meeting Summary functionality or by any other means) is PROHIBITED without express permission from a judicial officer. (Cal. Rules of Court, Rule 1.150(c) & (d))**

## PROBATE CALENDAR – Hon. Cynthia P. Smith, Dept. A (Historic Courthouse) at 8:30 a.m.

**In The Matter of The Ashe Family Trust** **20PR000163**

PETITIONERS' MOTION FOR LEAVE TO FILE FIRST AMENDED PETITION FOR INSTRUCTIONS REGARDING DISTRIBUTING PROCEEDS FROM SALE OF THE VINEYARD PROPERTY

**TENTATIVE RULING:** The motion is GRANTED IN PART.

The Court finds that Plaintiffs have complied with the requirements of Rules of Court, rule 3.1324, subdivisions (a) and (b). (See Declaration of Abby L. Bloetscher and Exhibits attached thereto.) Good cause appearing and no opposition having been filed, the request for leave to file a First Amended Petition is GRANTED.

However, for file management purposes the Court does not permit attachments to filings to be deemed the operative pleading in an action. For this reason, Petitioner's request that the First Amended Petition be deemed filed is DENIED.

Petitioner is granted 10 Court days' leave to file a First Amended Petition in substantially the same form attached as Exhibit A to the Declaration of Abby L. Bloetscher. By Order of September 2, 2025, the Court found good cause for permitting the First Amended Petition to be filed under seal. That Order is hereby extended to the First Amended Petition to be filed so long as the sealing (redaction) is consistent with the version of the pleading attached to the Declaration.

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**Estate of Dorothy Kaye Hall** **24PR000184**

FINAL DISTRIBUTION HEARING

**APPEARANCE REQUIRED.** Pursuant to Probate Code section 12201, a personal representative is required to either petition for an order for final distribution of the estate or make a report of status of administration not later than one year after the date of issuance of letters. There is no petition for final distribution or status report on file. Appearance is required to show the condition of the estate, the reasons why the estate cannot be distributed and closed, and an estimate of time needed to close administration of the estate. (Prob. Code, § 12202, subd. (a).)

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**Conservatorship of Roberto Roque Ramos** **24PR000272**

PETITION FOR TERMINATION OF CONSERVATORSHIP OVER THE ESTATE OF ROBERTO ROQUE RAMOS, CONSERVATEE WITH WAIVER OF ACCOUNTING

**TENTATIVE RULING:** Good cause appearing, and no objection or opposition having been filed, the Petition is GRANTED.

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**Conservatorship of Neftaly Gutierrez** **25PR000186**

PETITION FOR APPOINTMENT OF PROBATE CONSERVATOR OF THE PERSON – LIMITED CONSERVATORSHIP

**APPEARANCE REQUIRED.** Good cause exists for dispensing with notice to the Proposed Conservatee's Father Julio Cesar Gutierrez Navarrete, Grandparent Isidro Chavez

Zarate, and Grandparent Manuel Gutierrez, as the Verified Petition states that the location for these three individuals is unknown.

## **CIVIL LAW & MOTION CALENDAR – Hon. Cynthia P. Smith, Dept. A (Historic Courthouse) at 8:30 a.m.**

**Martha Kongsgaard v. Francis Wang as trustee of WFT_TNG.. et al** **19CV000286**

MOTION FOR LEAVE TO AMEND SECOND AMENDED CROSS COMPLAINT AND FOR AMENDMENT TO CASE CAPTION BY FRANCIS WANG AND LAURA YOUNG

**TENTATIVE RULING:** The motion is GRANTED IN PART. Cross-Complainants Francis Wang and Laura Young are granted 10 Court days' leave to file a Third Amended Cross-Complaint in substantially the same form as that attached as Exhibit 1 to the Declaration of Anna St. John but maintaining the prior case caption.

The Court finds that Plaintiffs have complied with the requirements of Rules of Court, rule 3.1324, subdivisions (a) and (b). (See Declaration of Anna St. John and Exhibits attached thereto.) Good cause appearing and no opposition having been filed, the request for leave to file a Third Amended Cross-Complaint is GRANTED.

However, for file management purposes a case's caption does not change based on the dismissal of parties and/or claims.

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**Esquibel Arias v. Domain Services, LLC** **24CV000298**

DEFENDANT, DOMAIN SERVICES, LLC'S MOTION TO ENFORCE SETTLEMENT AGREEMENT AND FOR SANCTIONS AGAINST PLAINTIFF ESQUIBEL ARIAS

**TENTATIVE RULING:** The matter is CONTINUED to October 22, 2025, at 8:30 a.m. in Dept. A. Defendant Domain Services, LLC (Domain) shall, no later than September 22, 2025, provide the Labor and Workforce Development Agency with a copy of the MOU (defined below), and a copy of the instant order.

Domain moves, pursuant to Code of Civil Procedure section 664.6 (Section 664.6), "to enter an order of judgment according to the terms of settlement in the Memorandum of Understanding." (Notice of Motion at 2:1-4.) Domain further moves for monetary sanctions against Plaintiff Esquibel Arias "in the amount of at least $6,607.50, representing Defendant's costs and attorneys' fees and costs incurred to date in bringing this Motion, to be paid to Defendant, or an amount to be determined by the Court, for Plaintiff's misuse of discovery pursuant to Code of Civil Procedure sections 2023.010 and 2023.030 and for bad faith in Plaintiff's PAGA representation." (*Id.* at 2:5-11.)

1. Legal Background

"If parties to pending litigation stipulate, in a writing signed by the parties outside of the presence of the court…for settlement of the case, or part thereof, the court, upon motion, may enter judgment pursuant to the terms of the settlement. If requested by the parties, the court may retain jurisdiction over the parties to enforce the settlement until performance in full of the terms of the settlement." (Code Civ. Proc., § 664.6, subd. (a).)

"In acting upon a section 664.6 motion, the trial court must determine whether the parties entered into a valid and binding settlement of all or part of the case. In making this determination trial judges, in the sound exercise of their discretion, may receive oral testimony or may determine the motion upon declarations alone. [Citation.]" (*Corkland v. Boscoe* (1984) 156 Cal.App.3d 989, 994.)

2. The Memorandum of Understanding is a Writing Signed by the Parties That Memorializes Mutual Commitments of Consideration Including Settlement of the Action

There appears to be no dispute as to the fact that Arias and Domain each signed the writing titled Memorandum of Understanding ("MOU"), *Esquibel Arias v. Domain Services, LLC*, Superior Court for the County of Napa, Case Number 24CV000298 attached as Exhibit 1 to the Declaration of Jennifer E. Douglass (MOU). (See Opposition at 3:5-4:27.) It also appears undisputed that the MOU was signed by each party's counsel of record as of the time of signing.[1]

Domain contends that the MOU is an enforceable agreement as it, "contains all of the essential terms to settle the representative PAGA action brought by Plaintiff individually and on behalf of the PAGA settlement class." (Support Memo at 3:14-15.) Plaintiff raises several arguments in opposition, each of which are addressed below.

"Stipulated judgments are interpreted according to contract principles. [Ciation.] When interpreting a contract, courts give effect to the parties' mutual intentions, first examining the contract's plain language. [Citations.] The language governs if it is clear, explicit, and does not involve absurdity. [Citation.] It must be read in the context of the whole instrument and circumstances of the case. [Citation.] The construction should give effect to all provisions without inserting or omitting text. [Citation.]" (*Estate of Jones* (2022) 82 Cal.App.5th 948, 952-53.)

We begin with the "circumstances of the case." The operative complaint – titled First Amended Representative Action Complaint and filed May 3, 2024 (FAC) – asserts a single claim, under the Private Attorneys General Act, on behalf of Plaintiff and all individuals employed by Domain as non-exempt employees in California during a certain period, for violations of said employees' rights under "California Labor Code sections 201, 202, 203, 204, 210, 226, 226.3, 226.7, 256, 510, 512, 1174, 1185, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 1199, 2802, 2804, and others that may be applicable; California Business and Professions Code

[1] Plaintiff has since substituted counsel in the action.

sections 17200 through 17210 (“UCL”); and the Applicable Wage Orders (Cal. Code of Regs., tit. 8, §§ 11040, 11080, 11140).” (FAC at ¶ 11.)

The preliminary question before the Court is whether the MOU reflects: (a) a mutual intention between the parties to agree to the terms set forth, with an intention to negotiate in good faith other, non-material terms, or rather, (b) only an intention to negotiate in good faith towards an agreement with anticipated terms.

The parties’ intentions in this regard are explicitly set out in the MOU. The MOU first provides that “[t]his is a settlement of a wage-and-hour representative action brought pursuant to the Labor Code Private Attorneys General Act of 2004 (‘PAGA’) entered into between (1) Plaintiff Esquibel Arias (‘Plaintiff’), individually and in his representative capacity as private attorney general on behalf of the State of California; and (2) Defendant Domain Services, LLC (‘Defendant’).” ((Declaration of Jennifer E. Douglas (Douglas Decl.), Exh. 1, at ¶ 1.) It provides that “[t]he Parties will work together in good faith to prepare, finalize, and execute a formal, long-form settlement agreement within 30 days from the date the Parties sign this MOU.” (Declaration of Jennifer E. Douglas (Douglas Decl.), Exh. 1, at ¶ 4.) It further provides, however, that “[n]otwithstanding anything else contained herein, this MOU shall be enforceable under California Code of Civil Procedure section 664.6 and admissible under California Evidence Code section 1123, subdivision (a). Regardless of any settlement privilege or other rules of evidence, this MOU may be admitted in Court and enforceable even if finalized settlement document cannot be agreed upon.” (*Id*. at ¶ 8.)

Moreover, the Court notes that the preeminent provisions of the MOU relate to payment of money by Domain in exchange for a release of liability, by Plaintiff, for the alleged acts of Domain relating to Plaintiff’s employment. (See, *e.g.*, Douglas Decl., Exh. 1, at 2, 3, and 5.)

Based on the foregoing, the Court finds that the MOU clearly and expressly memorializes an agreement between the parties to settle the action on the terms set forth therein, and to negotiate in good faith towards any additional relevant terms.

The Court finds that this conclusion is reinforced by the language of the Joint Case Management Statement *filed by Plaintiff* on February 18, 2025. “The Parties mediated the case on [*sic*] resolved the case in mediation on November 21, 2024 and a *binding* Memorandum of Understanding (‘MOU’) containing the settlement terms was signed by all parties effective December 18, 2024.” (*Id*. at ¶ 4. Emphasis added.) Moreover, the Court’s Minute Order from the March 5, Case Management Conference, at which counsel for both parties appeared, states “Counsel advise the case has settled.”

3. <u>The Term Sheet Contains the Essential Elements of the Parties’ Settlement Agreement, and there is No Showing that the Terms Left For Future Negotiation Are Essential to the Bargain</u>

As noted above, the MOU provides that “[t]he Parties will work together in good faith to prepare, finalize, and execute a formal, long-form settlement agreement within 30 days from the date the Parties sign this MOU." (Douglas Decl., Exh. 1 at ¶ 4.) This does not render the Term Sheet unenforceable as a contract.

"In order for acceptance of a proposal to result in the formation of a contract, the proposal must be sufficiently definite, or must call for such definite terms in the acceptance, that the performance promised is reasonably certain. [Citations omitted.]" (*Weddington Pod. Inc. v. Flick* (1998) 60 Cal.App.4th 793, 811.) An agreement definite in its essential elements is not rendered unenforceable by reason of uncertainty in some minor, nonessential detail. Hence it is common practice to provide that the nonessential details are to be left to further agreement of the parties. (*Hylton Flour Mills v. Bowen* (1933) 128 Cal.App. 711, 714.) "The enforceability of a contract containing a promise to agree depends upon the relative importance and the severability of the matter left to the future; it is a question of degree and may be settled by determining whether the indefinite promise is so essential to the bargain that inability to enforce that promise strictly according to its terms would make unfair the enforcement of the remainder of the agreement." (*Los Angeles v. Super. Court* (1959) 51 Cal.2d 423, 433.)

The Court finds that the MOU sets forth the essential elements of the parties' settlement agreement. The MOU does not identify *any* issues that are left to future negotiations. Through the opposition, Plaintiff similarly fails to identify or suggest any specific material term or issue that, as of the signing of the MOU, remained to be negotiated by the parties. Put another way, while the MOU reflects an anticipation that the parties' settlement agreement will be reduced to a different form, it does not reflect or evidence the existence of any material term that was to be subsequently negotiated and agreed upon.

Plaintiff asserts that "[t]he MOU provided that the parties would work in good faith to prepare long-form settlement agreement and that, in exchange for Defendant not objecting to a representative enhancement award of $5,000, the long form settlement agreement could include a release of all wage and hour claims and 'waiver of claims' under Civil Code section 1542." (Opposition at 9:20-24.) The MOU does not support the assertion that the long form agreement "could" include such release. Rather, the MOU clearly states, "Defendant will not object to a request for a representative enhancement award to Plaintiff in the amount of up to $5,000.00. In exchange for the enhancement award, the long-form settlement agreement *shall* contain a release of any and all wage and hour claims by Plaintiff, excluding any non-wage claims, and including a waiver of claims pursuant to Civil Code section 1542 and as further consideration, Plaintiff shall confirm in a separate writing that he is voluntarily resigning his employment as of the date of the execution of this Agreement." (Douglas Decl., Exh. 1 at ¶ 3, subd. (c).) By using the mandatory term "shall" the MOU reflects the parties' mutual agreement to this term.

Based on the foregoing, the Court finds that the MOU is a binding agreement to settle the action.

4. <u>Domain Does Not Seek to Enforce the MOU as to Any Class Claims</u>

Through the Opposition, Plaintiff argues that "the Court should deny this motion to enforce the settlement agreement as to the class claims." (Opposition at 6:11-12; see also *id.* at 6:13-8:3.)

First, Domain is not moving to enforce the MOU or the settlement agreement reflected therein. While the Motion is captioned one to enforce the settlement agreement, the Notice of Motion clearly states that the relief sought is entry of judgment pursuant to Section 664.6. (See Notice of Motion at 2:1-4.) Conversely, Domain does not request any order directing Plaintiff to undertake any act required, on Plaintiff's part to be performed under the MOU, and is not, therefore, a motion to enforce the agreement.

Second, there are no class claims at issue in the litigation. While Plaintiff's original complaint asserted claims on behalf of a class, those claims were omitted from the FAC. As such, these claims are no longer at issue in the litigation. (See *State Compensation Ins. Fund v. Super. Ct.* (2010) 184 Cal.App.4th 1124, 1130 ["[i]t is well established that an amendatory pleading supersedes the original one, which ceases to perform any function as a pleading"].)

Through the Opposition, Plaintiff acknowledges that "[t]he First Amended Complaint does not identify class claims. Instead, it asserts a single cause of action for violation of California's Labor Code Private Attorneys General Act ('PAGA')." (*Id*. at 2:25-27.) Plaintiff argues that, despite these facts "Plaintiff never dismissed the class claims which would have required filing a declaration, seeking court approval, and potentially providing notice to the putative class members." (*Id*. at 2:27-3:1.)

"A dismissal of an entire class action, or of any party or cause of action in a class action, requires court approval. The court may not grant a request to dismiss a class action if the court has entered judgment following final approval of a settlement. Requests for dismissal must be accompanied by a declaration setting forth the facts on which the party relies. The declaration must clearly state whether consideration, direct or indirect, is being given for the dismissal and must describe the consideration in detail." (Cal Rules of Court, rule 3.770, subd. (a).)

Plaintiff's argument is not well taken.

The Court finds that it gave tacit approval to Plaintiff to dismiss the class claims. "The court may grant the request without a hearing." (Cal Rules of Court, rule 3.770, subd. (b).) On April 4, 2025, the parties submitted a stipulation, signed by counsel for Plaintiff, that provided in part that "on March 27, 2024, counsel for Plaintiff advised counsel for Defendant that Plaintiff intends to dismiss the Class action claims in the Complaint and file an amended complaint to allege a sole cause of action for civil penalties under the Private Attorneys General Act (PAGA) by May 3, 2024." The Court relied on this representation in signing the Proposed Order granting Defendant additional time to file a responsive pleading. This Order, therefore, reflects the Court's tacit approval of Plaintiff's stated intention to dismiss the class claims by filing the FAC. Plaintiff thereafter filed the FAC.

No class was certified in the instant action. There was, therefore, no requirement to provide notice to putative class members. "If the court has not ruled on class certification . . . the action may be dismissed without notice to the class members if the court finds that the dismissal will not prejudice them." (Cal Rules of Court, rule 3.770, subd. (c).) Plaintiff does not, here, suggest or argue that any grounds existed in May, 2024, or exist today, that would support a denial of a request to dismiss the class claims from the action. Nor does Plaintiff suggest or argue that he, or any other party or potential class member has suffered or will suffer any prejudice based on his failure to obtain the Court's approval prior to his dismissal of the class claims.

The Court finds that justice would be undermined, rather than served, by permitting Plaintiff to now avoid his obligations under the MOU based solely on his own failure to formally request and obtain the Court's express approval prior to dismissing the class action claims by filing the FAC.

Finally, Plaintiff asserts that "[t]he Released Claims include class claims . . .." (Opposition at 7:9.) However, the MOU itself provides that "The 'Released Claims' is defined to mean those claims arising out of or related to the allegations set forth in the operative complaint and/or PAGA notice to the California Labor and Workforce Development Agency . . .." (Douglas Decl., Exh. 1 at ¶ 5, subd. (b).)

5. The Matter is Continued to Permit Defendant to Notify the Labor and Workforce Development Agency of the Proposed Settlement

Plaintiff correctly notes that the Court is required to review and approve any PAGA settlement pursuant to Labor Code section 2699, subdivision (s)(2).

The MOU provides that "Defendant agrees to not oppose Plaintiff's Motion for PAGA Approval to the extent it comports with this MOU and the long-form settlement agreement." (Douglas Decl., Exh. 1 at ¶ 4.) This reflects a clear agreement, by the parties, to assign to *Plaintiff* the obligation to move for approval of the PAGA settlement. In this context, Plaintiff's contention that judgment should not be entered because *Defendant* has not filed such motion is not well taken.

Moreover, the Court finds no reason why it cannot review the PAGA settlement in the context of the instant motion. For PAGA cases, "[t]he superior court shall review and approve any settlement of any civil action filed." (Labor Code § 2699, subd. (s)(2).) "PAGA settlements are subject to trial court review and approval, ensuring that any negotiated resolution is fair to those affected." (*Williams v. Super. Ct.* (2017) 3 Cal.5th 531, 549.) The standards for Court review of PAGA settlements are not the same as those for class actions, in part "because the trial court does not have a fiduciary responsibility to any absent class members as it does in reviewing class action settlements." (Weil & Brown, Cal. Practice Guide: Civil Procedure Before Trial (Rutter Group 2025) § 4:250.) For example, unlike class action settlements, there is no requirement that the Court hold a hearing for purposes of reviewing and approving a PAGA settlement. (Compare Labor Code § 2699, subd. (s)(2), with Cal. Rules of Court, rule 3.769, subds. (a) and (f).)

However, as Plaintiff correctly notes, "[t]he proposed settlement shall be submitted to [the Labor and Workforce Development Agency] at the same time that it is submitted to the court." (Labor Code § 2699, subd. (s)(2).) It appears undisputed that neither party has submitted the proposed settlement to that agency. The hearing is, therefore, CONTINUED, to permit

Defendant to submit the MOU to the agency and the agency to file any objection or opposition to the settlement with the Court in advance of the continued hearing.

The Court feels compelled to remind Plaintiff of his obligations, under the implied covenant of good faith and fair dealing, to avoid doing anything that would deprive Defendant of its benefits under the MOU. (See *Miller v. Zurich American Ins. Co.* (2019) 41 Cal.App.5th 247, 257.) This includes failing and refusing to assist Defendant in submitting the MOU to the Labor and Workforce Development Agency if necessary.

## CIVIL LAW & MOTION CALENDAR – Hon. Joseph J. Solga, Dept. B (Historic Courthouse) at 8:30 a.m.

**Richard Booth v. St Helena Hospital et al** **16CV000693**

MOTION FOR LEAVE TO AMEND PLAINTIFF'S MOTION TO VACATE AND SET ASIDE ORDER ADOPTING ERRONEOUS TENTATIVE RULIN GAND DENYING RECONSIDERATION OF ORDER DISMISSING CASE TO UPDATE HIS ADDRESS, AND REPLACE SIGNATURE PAGES WITH PAGES BEARING IMAGES OF PLAINTIFF'S WET SIGNATURE, FOR IN-PERSON FILING WITH NAPA SUPERIOR COURT

**TENTATIVE RULING:** The motion is DENIED.

The moving party failed to include in the notice of this motion proper notice of the Court's tentative ruling system as required by Local Rule 2.9. Moving party is directed to immediately provide, by telephone call AND email, the missing notice to opposing party/ies forthwith. The requirements for requesting oral argument under Local Rule 2.9 remain in effect. However, the Court may grant belated requests for oral argument or continuance of hearing, made by any party who represents it did not timely receive the required notice, regardless of whether or not moving party is present at the hearing.

"The court lacks jurisdiction to rule on a motion that has not been properly noticed for hearing on the date in question." (*Diaz v. Prof. Community Management, Inc.* (2017) 16 Cal.App.5th 1190, 1204-05.) Defendant failed to provide adequate notice of the hearing date. (See Code Civ. Proc. §§1005, subd. (b) and 1010.6, subd. (a)(3)(B).)

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**Christopher Bearman v. Shellpoint Mortgage Servicing, LLC et al** **21CV001769**

DEFENDANT VILLA ZINFANDEL, LLC'S MOTION TO EXPUNGE NOTICE OF PENDENCY OF ACTION, AND REQUEST FOR ATTORNEY'S FEES

**TENTATIVE RULING:** The matter is CONTINUED to October 1, 2025, at 8:30 a.m. in Dept. B to allow briefing on the issue of the Court's jurisdiction as discussed herein.

Defendant Villa Zinfandel, LLC ("Defendant") moves, pursuant to Code of Civil Procedure sections 405.31 and 405.38,[2] for an order expunging the Notice of Pendency of Action, Instrument No. 2022-0007473 ("*Lis Pendens*") recorded by Plaintiff Christopher Bearman ("Plaintiff") against Defendant's real property at 1401 Zinfandel Lane, St. Helena, CA 94574 and for recovery of reasonable attorney's fees. Defendant so moves on the grounds that no underlying pleading exists containing a real property claim. (Notice of Motion, 1:27-28.)

Defendant acknowledges that the underlying action was dismissed on or about June 28, 2023. Defendant contends that, around July 16, 2025, it discovered that the *Lis Pendens* was never withdrawn by Plaintiff. There is nothing on file by Plaintiff in response to the present Motion. The Court is concerned it is without jurisdiction to hear this Motion.

"When a dismissal has properly been filed, the trial court loses jurisdiction to act in the case." (*Tire Distributors, Inc. v. Cobrae* (2005) 132 Cal.App.4th 538, 542; *Law Offices of Andrew L. Ellis v. Yang* (2009) 178 Cal.App.4th 869, 876 ["Upon the proper filing of a request to voluntarily dismiss a matter, the trial court loses jurisdiction to act in the case, 'except for the limited purpose of awarding costs and statutory attorney fees.'].)

It does not appear that there is an exception to the foregoing rule for motions to expunge, as the applicable statute provides: "At any time after notice of pendency of action has been recorded, any party … may apply to the court in which the action is pending to expunge the notice." (§ 405.30.) Section 405.30 expressly requires an action to be "pending." (*Ibid.*; see also *United Prof. Planning. Inc. v. Superior Court* (1970) 9 Cal.App.3d 377, 384 [discussing importance of statutory language that "the expungement is to be made by 'the court in which the action is pending'" for purposes of a pending appeal].) The Court notes the case cited by Defendant, *Mix v. Superior Court* (2004) 124 Cal.App.4th 987, 989, which holds that a *lis pendens* may be expunged after a trial defeat while the matter is on appeal. But *Mix* is not analogous as, there, the case was still "pending" in the trial court while the matter was on appeal. Here, there is no "pending" action before the Court.

A ruling here that the Court is without jurisdiction would presumably necessitate Defendant to bring its Motion for Expungement in a new proceeding, following procedural rules for commencement of a lawsuit (*i.e.*, service of summons, *etc.*). Given those procedural hurdles, the Court is willing to afford Defendant an opportunity to brief this issue and provide the Court with authority that gives it jurisdiction to hear the present Motion.

Defendant shall serve and file, no later than September 17, 2025, a supplemental brief not to exceed three pages addressing the foregoing.

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[2] All subsequent statutory references are to the Code of Civil Procedure unless otherwise specified.