

**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF MARIN**

DATE: 10/12/18      TIME: 1:30 P.M.      DEPT: E      CASE NO: CV1604694

PRESIDING: HON. PAUL HAAKENSON

REPORTER:

CLERK: S. HENDRYX

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PLAINTIFF:      STEVEN J.D. STUART

vs.

DEFENDANT:      KIMBERLY MCKELL

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NATURE OF PROCEEDINGS: 1) NOTICE OF MOTION – AND MOTION TO ENFORCE SETTLEMENT [DEFT] KIMBERLY MCKELL  
2) NOTICE OF MOTION – AND MOTION TO FILE SETTLEMENT DOCUMENTS UNDER SEAL [DEFT] KIMBERLY MCKELL

RULING

**Defendant's Motion to File Settlement Documents Under Seal**

Defendant's Motion to File Settlement Documents Under Seal is granted.

**Defendant's Motion to Enforce the Settlement**

Defendant's Motion to Enforce the Settlement is granted in part.

First, the court finds that the March 20, 2018 settlement agreement is a final and binding contract between the parties. No order requiring the parties to execute a new conforming written settlement is required. The parties are bound by the terms of the settlement executed on March 20, 2018.

The court's finding, however, is seemingly just a hollow order, with no effect. That is, defendant does not seek entry of judgment on the settlement agreement, and does not seek any order compelling plaintiff to comply with the terms of the settlement agreement. Thus, it appears that the general order adjudging the settlement agreement to be a final binding agreement does nothing to move the parties toward resolution of their dispute.

The parties are at an impasse with regard to whether defendant must pay the settlement amount to plaintiff, or to the lienholder. The order sought by this motion does not address that question.

It is evident that defendant faces conflicting claims for the \$23,500 payment it owes (by plaintiff and lienholder).<sup>1</sup> The court makes no order on that conflict here. Nevertheless, defendant likely has a means to resolve the conflict, and perform its obligations under the settlement, and thereafter seek dismissal. For instance, defendant might be able to obtain dismissal here through an action in intervention. See, for example *Southern California Gas Co. v. Flannery* (2014) 232 Cal.App.4th 477, 489. The court offers no decision as to the method or methods available to defendant to satisfy its obligations under the settlement and its obligations toward the lienholder.

To the extent defendant seeks an order requiring plaintiff to provide documentation of medical bills, the request is denied. The settlement agreement provides no such requirement.

Finally, plaintiff filed a “joinder” to the motion, but therein seeks alternative relief. Thus, the joinder is not actually a joinder. To the extent plaintiff seeks a different order enforcing the settlement, or enforcing terms he wishes to have read into the settlement agreement, the request is denied. Further, to the extent plaintiff asserts that the reference to plaintiff receiving \$23,500 “net” means defendant must pay him the proceeds disregarding the lien, the court disagrees. Initially, the court notes that the parties cannot settle around the lien. Here, the settlement agreement cannot be read to include a requirement that must disregard any lienholder.

The court will sign the proposed order, declaring the March 20, 2018 agreement to be the final and binding agreement between the parties. No other order was sought, and none is warranted under the facts now before the court.

***Parties must comply with Marin County Superior Court Local Rules, Rule 1.10(B) to contest the tentative decision. In the event that no party requests oral argument in accordance with Rule 1.10(B), the prevailing party shall prepare an order consistent with the announced ruling as required by Marin County Superior Court Local Rules, Rule 1.11.***

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<sup>1</sup> The court notes that the apparent lien holder has not formally filed any lien in this action.  
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**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF MARIN**

DATE: 10/12/18      TIME: 1:30 P.M.      DEPT: E      CASE NO: CV1700678

PRESIDING: HON. PAUL HAAKENSON

REPORTER:

CLERK: S. HENDRYX

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PLAINTIFF:      SENTINEL INSURANCE  
COMPANY LTD.

vs.

DEFENDANT:      TOM ASHER, ET AL

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NATURE OF PROCEEDINGS: NOTICE OF MOTION – AND MOTION CONTINUE TRIAL  
DATE [DEFT] KRISTEN ASHER [DEFT] TOM ASHER

RULING

Good cause appearing, and without opposition, the motion to continue trial is granted.

Trial is continued to May 14, 2019 at 9:00 AM. Issue conference is scheduled for May 13, 2019, 1:30 PM. Mandatory settlement conference is scheduled for May 1, 2019 9:00 AM.

All pre-trial and motion cut off dates attach to the new trial date.

***Parties must comply with Marin County Superior Court Local Rules, Rule 1.10(B) to contest the tentative decision. In the event that no party requests oral argument in accordance with Rule 1.10(B), the prevailing party shall prepare an order consistent with the announced ruling as required by Marin County Superior Court Local Rules, Rule 1.11.***

**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF MARIN**

DATE: 10/12/18      TIME: 1:30 P.M.      DEPT: E      CASE NO: CV1702115

PRESIDING: HON. PAUL HAAKENSON

REPORTER:

CLERK: S. HENDRYX

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PETITIONER:      EVAN KUBOTA

vs.

RESPONDENT:      COUNTY OF MARIN, ET  
AL

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NATURE OF PROCEEDINGS: WRIT

RULING

The petition for writ of mandate is continued to November 19, 2018 at 1:30 p.m. in Department E.

**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF MARIN**

DATE: 10/12/18      TIME: 1:30 P.M.      DEPT: E      CASE NO: CV1703061

PRESIDING: HON. PAUL HAAKENSON

REPORTER:

CLERK: S. HENDRYX

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PETITIONER:      ANGELA WEBER

vs.

RESPONDENT:      JEAN SHIOMOTO

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NATURE OF PROCEEDINGS: MOTION – FOR ORDER COMPELLING COMPLIANCE WITH JUDGMENT ON WRIT OF ADMINISTRATIVE MANDAMUS [PETR] ANGELA WEBER

RULING

Petitioner's Motion for Order Compelling Compliance with Judgement on Writ of Administrative Mandamus is denied.

Petitioner has not shown that Respondent failed to comply with the judgment on the underlying writ. The court's decision on the writ addressed the propriety of the license suspension. The court determined that the license was not unlawfully suspended. The court rendered no decision as to the length of the suspension. Nothing in the court's order precluded Respondent from correcting administrative errors or mistakes as to the suspension end date.

Drawing on the principles of res judicata or collateral estoppel, the court concludes that the length of suspension was not adjudicated in the writ proceeding. Nothing about the prior proceeding can be said to bind Respondent to a one-year suspension.

If Petitioner has grounds to challenge the legality of the now 2-year suspension, that must occur by a separate action.

***Parties must comply with Marin County Superior Court Local Rules, Rule 1.10(B) to contest the tentative decision. In the event that no party requests oral argument in accordance with Rule 1.10(B), the prevailing party shall prepare an order consistent with the announced ruling as required by Marin County Superior Court Local Rules, Rule 1.11.***

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**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF MARIN**

DATE: 10/12/18      TIME: 1:30 P.M.      DEPT: E      CASE NO: CV1700152

PRESIDING: HON. PAUL HAAKENSEN

REPORTER:

CLERK: S. HENDRYX

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PLAINTIFF:      BRIAN FLIPPO

and

DEFENDANT:    NORTH BAY MARIN, LLC,  
ET AL

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NATURE OF PROCEEDINGS: MOTION FOR SUMMARY JUDGMENT – DEFENDANTS’  
NOTICE OF MOTION AND MOTION FOR SUMMARY JUDGMENT OR, IN THE  
ALTERNATIVE, SUMMARY ADJUDICATION OF ISSUES

RULING

The motion for summary judgment/adjudication is continued to October 19, 2018 at 1:30 PM.