

NOTICE:

To request limited oral argument on any matter on this calendar, you must call the Court at (916) 874-5487 (Department 47) by 4:00 p.m. the court day before this hearing and advise opposing counsel. If no call is made, the tentative ruling becomes the order of the court. Local Rule 2.02(D).

**Department 47
Superior Court of California
720 Ninth Street
Roland L. Candee, Judge
S. Jacobs/P. Banks, Clerk
None, Bailiff**

Tuesday, April 03, 2007, 9:30 AM

Item 1 **04AS02545 JENNY M. SEQUEIRA, ET AL VS. STEPHEN MEHLERT, ET AL**

Nature of Proceeding: Miscellaneous Motion

Filed By:

Good cause appearing, and the parties having stipulated thereto, defendants' motion to continue settlement conference and trial currently set for April 10, 2007 and May 14, 2007, respectively, is GRANTED. This matter shall be placed upon the May 21, 2007 trial setting calendar to be heard at 10:00 a.m. in Department 47.

The court finds good cause to continue based upon the stipulation of the parties and defendant Stephen Mehlert's unavailability.

Item 2 **04AS03760 BRANDY GILLMORE VS. 4R FAMILY ENTERPRISES, INC. ET AL**

Nature of Proceeding: Motion To Continue Trial

Filed By:

Good cause appearing, and the parties having stipulated thereto, plaintiff's motion to continue trial and settlement conference currently set for June 5, 2007 and May 16, 2007, respectively, is GRANTED. This matter shall be placed upon the May 7, 2007 trial setting calendar to be heard at 10:00 a.m. in Department 47.

The court finds good cause to continue based upon the stipulation of the parties, the parties request for additional time to pursue mediation and various counsels' trial conflicts.

Item 3 **05AS02404 CARL BRYAN WALKER VS. CA HIGHWAY PATROL, ET AL**

Nature of Proceeding: Motion To Continue Trial

Filed By:

Good cause appearing, and the parties having stipulated thereto, defendants California Highway Patrol, Officer Lopez and Officer Machado's motion to continue trial currently set for May 29, 2007 is GRANTED. Trial in this matter shall be continued to June 12, 2007 at 8:30 a.m. in Department 47. No request having been made to continue the settlement conference, the May 1, 2007 settlement conference date is hereby

confirmed.

The court finds good cause to continue based upon the stipulation of the parties, the unavailability of counsel and the need to extend the hearing date on a previously scheduled motion for summary judgment.

Item 4 **05AS04714 BINESHWAR PRASAD VS. BECK PROPERTIES, INC ET AL**

Nature of Proceeding: Motion To Continue Trial

Filed By:

Good cause appearing, and no opposition having been received defendant Beck Properties Inc.'s motion to continue settlement conference and trial currently set for April 11, 2007 and May 22, 2007, respectively, is GRANTED. This matter shall be placed upon the May 21, 2007 trial setting calendar to be heard at 10:00 a.m. in Department 47. Movant's request to extend the discovery cut-off dates is also GRANTED. The discovery cut-off dates shall be calculated based upon the new trial date.

The court finds good cause to continue trial and settlement conference and to extend the discovery cut-off dates in this construction defects case as much discovery remains in this multiparty litigation and the parties seek additional time to attempt to resolve all or part of the case.

Item 5 **07AS00965 TILTON PACIFIC CONSTRUCTION VS. THE STATE OF CA, ET AL**

Nature of Proceeding: Motion To Change Venue

Filed By:

Defendants' State of California, Division of Labor Standards Enforcement, Robert A. Jones and Kevin Irvine's motion to change venue of this action to the Shasta County Superior Court is GRANTED. Plaintiff shall pay transfer fees. Each parties' request for attorney fees and costs is hereby DENIED.

Plaintiff seeks, among other things, a declaration from this court that as a result of its previous payment to the Labor Standards Enforcement Office in Redding, the state defendants are not entitled to seek penalties from it. Defendants assert under CCP 393 (b), venue of such an action lies in Shasta County where the claim was handled and where plaintiff's payment was remitted. Section 393(b) provides that the county where the cause arose is the proper county for venue of an action "against a public officer...or against a person who, by the officer's command or in the officer's aid, does anything touching the duties of the officer".

In this case, it is not disputed that defendants the California Division of Labor Standards Enforcement and/or Robert A. Jones, Acting Labor Commissioner are public officers within the meaning of the statute. (See Regents of the University of California v. Superior Court (1970) 3 Cal.3rd 529).

Plaintiff objects to venue in Shasta County on the ground that the motion was untimely filed, that the alleged injury occurred in Placer County where plaintiff has its principal place of business and that CCP 393 does not apply to such claims. The court finds

plaintiff's arguments to be without merit. The motion to change venue was filed February 2007. This is within the period in which defendants could file an answer or otherwise plead as no default had been entered. Indeed, defendants filed a demurrer to the action several weeks thereafter. The court determines that the cause of action arose in Shasta County where the employees who handled the claim, communicated and corresponded with plaintiff, accepted plaintiff's remittance and who allegedly determined that penalties could still be pursued are located. Finally, the court is satisfied that CCP 393(b) applies to declaratory relief actions such as this.

The court finds that both parties acted in good faith in bringing and opposing the venue motion. Accordingly, attorney fees and costs are denied.

Item 6 **06AM04964 LEWIS, MILLER & COMPANY, INC VS. MARY COTTRELL, ETAL**

Nature of Proceeding: Motion To Continue Trial

Filed By:

Good cause appearing, and no opposition having been received, plaintiff's motion to continue this short cause trial currently set for April 6, 2007 is GRANTED. Trial in this matter shall be continued to August 17, 2007 at 8:30 a.m. in Department 47.

The court finds good cause to continue this short cause matter based upon the absence of opposition and that plaintiff has recently discovered information necessitating that it amend its complaint to add a new party. That party will require additional time to prepare for trial.

Item 7 **06AM04964 LEWIS, MILLER & COMPANY, INC VS. MARY COTTRELL, ETAL**

Nature of Proceeding: Motion To Continue Trial

Filed By:

See ruling in item no. 6.
