

**SUPERIOR COURT, STATE OF CALIFORNIA
COUNTY OF SANTA CLARA**

**Department 3
Honorable William J. Monahan, Presiding**

Courtroom Clerk
191 North First Street, San Jose, CA 95113
Telephone: (408) 882-2130

DATE: 9/12/2024 TIME: 9:00 A.M.

TO CONTEST THE RULING: Before 4:00 p.m. today (9/11/2024) you must notify the:

- (1) Court by calling (408) 808-6856 and
- (2) Other side by phone or email that you plan to appear and contest the ruling.
(California Rule of Court 3.1308(a)(1) and Local Rule 8.E.)

TO APPEAR AT THE HEARING: The Court prefers in-person appearances or by Teams. If you must appear virtually, please use video.

FOR YOUR NEXT HEARING DATE: Please reserve your next hearing date using Court Schedule—an online scheduling tool that can be found on the Santa Clara County court website.

FINAL ORDERS: The prevailing party shall prepare the order unless otherwise ordered. (See California Rule of Court 3.1312.) **Please Note:** Any proposed orders must be submitted with the Judicial Council Form EFS-020 Proposed Order (Cover Sheet). Please include the date, time, dept., and line number.

COURT REPORTERS: The Court no longer provides official court reporters. If any party wants a court reporter, the appropriate form must be submitted. See court website for policy and forms.

LINE #	CASE #	CASE TITLE	RULING
LINE 1	23CV424636	JPMorgan Chase Bank N.A. vs David Shapiro	Motion: Judgment on Pleadings and request for judicial notice by Plaintiff JPMorgan Chase Bank N.A. Unopposed and GRANTED. Moving party to prepare order for signature by court.
LINE 2	23CV414686	SUSAN PICKETT vs Hilton Worldwide, Inc., et al.	Motion: Change of Venue and Request for Reasonable Expenses and Attorneys' Fees in the Amount of \$3,260.00 by Plaintiff SUSAN PICKETT Ctrl Click (or scroll down) on Line 2 for tentative ruling. The court will prepare the order.

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LINE 3	23CV420692	Andre LaForge et al vs Matthew Leal	Motion: Strike Causes of Action 1-6 of Plaintiff's Complaint by Defendant Mathew Leal (Pro per) OFF CALENDAR. Judge Pennypacker granted Plaintiffs' Ex Parte Application to Continue this Anti-SLAPP motion. The Anti-SLAPP motion set for 9/12/2024 and the Anti-SLAPP motion set for 9/17/2024 will be heard together on 9/26/2024 at 9am in Dept. 3 with the demurrer and motion to strike scheduled for that day.
LINE 4	23CV425833	David George Williams vs Michael Gavin Williams	Hearing: Motion to dismiss (in pro per) plaintiff David George Williams ("Plaintiff")'s complaint with prejudice by defendant Michael Gavin Williams ("Defendant") pursuant to Code of Civil Procedure ("CCP") sections 575.2 and 583.150 and pursuant to California Rules of Court ("CRC") rule 2.30 and Defendant's request for monetary sanctions pursuant to CCP section 575.2(a) for Plaintiff to pay Defendant his reasonable expenses in making this motion, including reasonable attorneys' fees (of 8.5 hours at \$250 per hour) in the amount of \$2,125, plus expenses of \$60 (filing fee) [Insert footnote 1], for a total award of \$2,185. Footnote 1: The court did not award Defendant's requested additional \$39 expense for service of the motion by Federal Express because the proof of service for the motion did not include Federal Express. [This reduced the expenses requested by Defendant from \$99 to the \$60 (filing fee) awarded and the total amount requested by Defendant from \$2,224 to the total amount awarded of \$2,185.] Unopposed and GRANTED. Moving party to prepare order for court's signature.
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Calendar Line 2

Case Name: Susan Pickett vs Hilton Worldwide, Inc., et al.

Case No.: 23CV414686

Good cause appearing, plaintiff Susan Pickett (“Plaintiff”)’s motion for change of venue from the Santa Clara County Superior Court to the San Bernadino County Superior Court pursuant to Code of Civil Procedure (“CCP”) sections 395, 395.5, 396, 397, and 398 is GRANTED.

This court’s clerk office shall promptly transfer the file in this matter to the clerk’s office for **Superior Court of California, County of San Bernadino, Civil Division of the San Bernadino District, 247 West 3rd St., San Bernadino, CA 92415-0210**. Plaintiff shall promptly pay any costs requested by the court clerk’s office related to this transfer of venue.

At the time of the filing of Plaintiff’s complaint, Plaintiff selected the incorrect court through the inadvertence, mistake, or excusable neglect of Plaintiff’s counsel. (See Decl. of Andrew A. Talebi (“Talebi Dec.”) ¶ 3.) This incident arises from a slip and fall incident that occurred at a hotel under the management and control of defendants Interstate Management Company, LLC (“Interstate”) and Fontana Hotel Group, LLC (“Fontana”) (collectively “Defendants”), located at 10543 Sierra Avenue, Fontana California 92337. (Request for Judicial Notice (“RJN”; Ex. 1.) Leading into the incident and thereafter, Plaintiff was and is a resident of the City of Fontana in the County of San Bernadino, California. (Talebi Dec. ¶ 4; Ex. A.) Since the incident, Plaintiff received treatment from various physicians in and around the San Bernadino County area. (Talebi Dec. ¶ 4, Ex. A.)

The connection to Santa Clara County was that Fontana’s agent for service of process is located in Campbell, California. (RJN, Ex. 3.) There are no witnesses identified by either side in connection with this motion that are in Santa Clara County.

The [Santa Clara County Superior Court] designated in the complaint is *not* the proper court and the convenience of witnesses and the ends of justice would be promoted by the change [to the San Bernadino County Superior Court]. (CCP § 397(a) and (b).)

Plaintiff attempted to resolve this motion for change of venue with Defendants through a proposed Joint Stipulation on or about June 13, 2024. (Tavevi Dec. ¶7, Ex. D.) On June 14, 2024, Plaintiff notified Defendants’ counsel that they would file a motion for change of venue if Defendants did not agree. (Traveli Dec. ¶8, Ex. E.)

Instead of notifying Plaintiff’s counsel that they would not stipulate to the change of venue, the court’s file shows that Defendants filed a motion for summary judgement or in the alternative summary adjudication (“MSJ/SA motion”) on July 10, 2024.

On July 12, 2024, Plaintiff’s counsel followed up with Defendant’s counsel concerning the proposed Stipulation. (Traveli Dec. ¶8, Ex. F.)

The court’s file shows Plaintiff promptly filed this motion for change of venue on July 22, 2024.

Plaintiff’s request for judicial notice is GRANTED.

Plaintiff's request for reasonable expenses and attorneys' fees (in the amount of \$3,260 or any other amount) pursuant to CCP section 396b(b) is DENIED. Plaintiff's notice of motion failed to identify who these amounts were sought against. It would be unjust to award Plaintiff's reasonable expense and attorneys' fees because Plaintiff's counsel selected the incorrect court through the inadvertence, mistake, or excusable neglect of Plaintiff's counsel. (See Talebi Dec. ¶ 3.)

Plaintiff's ex parte motion to continue the October 1, 2024, hearing date and briefing schedule on Defendant's MSJ/SA motion that was argued and taken under submission on September 10, 2024, is MOOT because of the granting of this change of venue motion. The hearing for Defendants' MSJ/SA motion will need to be re-noticed by Defendants after the San Bernadino County Superior Court clerk's office receives this court's file. The briefing schedule will be based on the new hearing date.

The court will prepare the order.

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