

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

Department 3

Honorable William J. Monahan, Presiding

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

DATE: 1/18/2024 TIME: 9:00 A.M.

TO CONTEST THE RULING: Before 4:00 p.m. today 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 strongly prefers in person appearances. If you must appear virtually, please use video. To access the link, click on the below link or copy and paste into your internet browser and scroll down to Department 3.

https://www.sccscourt.org/general_info/ra_teams/video_hearings_teams.shtml

TO SET YOUR NEXT HEARING DATE: You no longer need to file a blank notice of motion to obtain a hearing date. Phone lines are now open for you to call and reserve a date before you file your motion. If moving papers are not filed within 5 business days of reserving the date, the date will be released for use in other cases. Where to call for your hearing date: **408-882-2430** When you can call: **Monday to Friday, 8:30 am to 12:30 pm**

FINAL ORDERS: The prevailing party shall prepare the order unless otherwise ordered. (See California Rule of Court 3.1312.)

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	22CV397214	Andiamo! Group vs Dawnlight Technologies, Inc.	Order of Examination. WITHDRAWN on 12/5/2023. No appearance required.
LINE 2	16CV295730	Cyrus Hazari vs Mandy Brady	Hearing: Petition. OFF CALENDAR in Dept. 3. Assigned to Judge Manoukian in Dept. 20.
LINE 3	17CV320200	Pedro Diaz et al vs Luis Santiago et al	Motion: Enforce Settlement. GRANTED IN PART. Ctrl click on Line 3 for tentative ruling.
LINE 4	21CV382337	SLAKEY BROTHERS, INC. vs DIANNE LEFFLER et al	Motion: Withdraw as attorney. Unopposed and GRANTED. The court will sign the proposed order filed 8/28/2023.

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LINE 5	23CV416863	Angelica Carr vs. Hui Liu	Motion: Order. Unopposed and GRANTED. The court will sign (1) the proposed order confirming contractual arbitration award and entry of judgment in conformity therewith and (2) the proposed judgment. They are attached as pages 24 to 27 to the petition filed 6/28/2023.
LINE 6	23CV419185	TBF Financial I, LLC vs. Coupana LLC et al.	Motion for Order for Publication of Notice of Sister State Judgment with Respect to Defendant Deandre Lavell Moore. Good cause appearing, GRANTED. Plaintiff to submit proposed order for signature.
LINE 7	22CV400444	Jimmy Lee vs City of San Jose	OSC: Dismissal failure to serve. Continued to 1/30/2024 at 9am in Dept. 3 (so it may be heard at same time as Plaintiff's motion for stay.)
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Name: *Pedro Diaz et al vs. Luis Santiago et al.*

Case No. 17CV320200

Motion: Enforce Settlement

Plaintiffs Pedro Tostado Diaz and Maria Santiago (collectively "Plaintiffs") motion to enforce the written settlement agreement ("Agreement") between Plaintiffs and defendants Luis Santiago and Maria Santiago (collectively "Defendants") pursuant to Code of Civil Procedure (CCP) section 664.6 and for reasonable attorneys' fees and costs is GRANTED IN PART.

Plaintiff's request for liquidated damages is GRANTED IN PART.

Section 9 of the Agreement provides:

The Parties agree that in the event they believe any other Party *has breached* any term of this Agreement, the non-breaching Party *will meet and confer in good faith* with the allegedly breaching Party to resolve the dispute. For purposes of this Agreement, "meet and confer in good faith" means *either an in-person conversation or telephone conversation in which the Parties respectfully identify the issue in dispute and propose one or more resolutions.*" (Emphasis added.)

Section 11 of the Agreement provides for liquidated damages in certain amounts "subject to the meet and confer requirement described in Section 9 of this Agreement...." Section 11 provides that the liquidated damages for a second violation payable to the non-breaching family is \$2,000. It also provides: "The Party prevailing at Court will be entitled to receive the penalty at issue and an award of reasonable attorneys' fees and costs."

The court finds Plaintiffs are entitled to liquidated damages of \$2,000 for a second violation by Defendants under paragraph 11 of the Agreement payable to the Plaintiffs, and that the texts on page 15 of the declaration of Pedro Tostado Diaz shows that Defendants were aware of the dispute concerning placement of traffic cones and the "damage" those are doing to Plaintiffs' car *after* it occurred. This is sufficient evidence of at least one meet and confer in good faith *after* the Plaintiffs believed Defendants had breached the Agreement.

Otherwise, the court finds that the Plaintiffs failed to meet and confer in good faith as required by sections 9 and 11 of the Agreement to recover liquidated damages for additional violations.

Plaintiff's request for reasonable attorney's fees and costs is GRANTED IN PART. The court finds that Plaintiffs are entitled to recover attorney's fees in the reasonable amount of \$3,544 plus costs in the amount of \$94.42 for a total of \$3,638.42 as the prevailing parties pursuant to section 11 of the Agreement.

Accordingly, Defendants shall pay Plaintiffs a total of \$5,638.42 within 30 days of this order.

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