

Tentative Rulings – July 27, 2005

To request a hearing on any matter on this calendar, you must call the Court at (209) 223-6360 by 4:30 p.m. today. Notice of the intention to appear must also be given to all other parties. If the clerk is not notified of a party's intention to appear, there will be no hearing and the tentative ruling becomes the order of the court.

Eanni v. Maeser 05CV3775- Defendant's Motion for Reconsideration of Order

Defendant's Motion for Reconsideration is denied.

Of note, there is no proof of service accompanying Defendant's Motion for Reconsideration. Moreover, Defendant failed to give the proper notice pursuant to Amador County Local Rule 4.03.

Defendant's Declaration in Support of Motion for Reconsideration fails to comply with the provisions of Code of Procedure Section 1005, subdivision (a). Defendant fails to set forth what application was made before, when it was made and to what judge, or what Orders or decisions were made.

Code of Civil Procedure Section 1005 allows a party to seek reconsideration of an Order if there are new circumstances of law, facts, or circumstances to warrant the same. Defendant's Motion states it is seeking reconsideration of the Order issued on June 23, 2005. The Order issued by this Court on said date ordered Defendant to file an Answer and set the trial date. There was no Motion for Judgment presented to the Court on said date, as contended by Defendant. Defendant also alleges that new facts warrant reconsideration. Said facts are that the Plaintiff left personal possessions at the premises upon vacating the same. However, these facts are irrelevant to the Orders issued by the Court on June 23, 2005. Ultimately, it is entirely uncertain which Order the defendant is seeking reconsideration of.

Defendant also attempts to rely on a prior court Order dated May 17, 2005, which resulted from a Temporary Restraining Order hearing on May 3, 2005. This Order granted Plaintiff's request for a Temporary Restraining Order and set rehearing for June 23, 2005. At the May 3, 2005 hearing, the parties entered into certain stipulations, which were referenced in the court's Order. Said stipulations cannot form the basis for a Motion for Reconsideration, as stipulations by and between the parties are not Orders subject to reconsideration.

Plaintiff's request for sanctions is denied without prejudice to its reassertion pursuant to the procedures outlined in Code of Civil Procedure Section 128.7.

Unless a hearing is requested, this minute order is effective immediately. No formal order per California Rules of Court, Rule 391 is needed, nor is further notice of this ruling required.