

TENTATIVE RULINGS– NOVEMBER 21, 2008

To request a hearing on any matter on this calendar, you must call the Court at (209) 257-2692 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.

GOEWEY v. BUSS: 08CV5461

Demurrer to First Amended Complaint

Defendant's demurrer to the first amended complaint is sustained with leave to amend. The term "guardian," as provided for in Code of Civil Procedure section 372, refers to a guardian appointed by the Court. As such, the minor plaintiffs must appear either through a guardian ad litem or a court appointed guardian.

Plaintiff's Motion to Quash

Plaintiff's motion to quash is hereby granted. This order is made without prejudice to the defendant seeking said records at a later date upon a proper showing.

Defendant has failed to demonstrate the plaintiff has placed his medical condition "at issue." Moreover, Defendant has not made a sufficient showing to warrant invasion of the physician-patient privilege and the plaintiff's right to privacy inherent in his medical records.

Unless a hearing is requested, this minute order is effective immediately. No formal order per California Rules of Court, Rule 3.1312 is needed, nor is further notice of this ruling required.

LVNV v. Harper: 08CV5454

Plaintiff's Motion for Order Establishing Admissions and for Monetary Sanctions

Plaintiff's motion is denied.

Upon receipt of a meet and confer letter regarding untimely responses to discovery, the defendant contacted the plaintiff and informed the plaintiff that the discovery requests were never received. Defendant requested the requests be sent to him. Copies of the requests were sent to the defendant on October 20, 2008. The plaintiff filed the instant motion on November 3, 2008. The defendant served responses to the discovery on November 17, 2008. As such, the defendant responded within 30 days of service of the discovery responses. The plaintiff was unreasonable in not allowing the defendant adequate time to respond to the requests, based upon his non-receipt of the discovery.

Unless a hearing is requested, this minute order is effective immediately. No formal order per California Rules of Court, Rule 3.1312 is needed, nor is further notice of this ruling required.