

**LAW AND MOTION TENTATIVE RULINGS**  
**DATE: FEBRUARY 4, 2025 TIME: 8:30 A.M.**

**TENTATIVE RULINGS ARE NOT POSTED IN UNLAWFUL DETAINER CASES**

**No. 21CV02962**

**BONILLA et al. v. REITER BERRY FARMS INC.**

**(UNOPPOSED) MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT**

The motion is granted.

The court finds that the settlement falls within a range of reasonableness and is presumptively valid; appears to be a product of serious, informed and non-collusive negotiations; and has no obvious deficiencies. The court grants preliminary approval of the settlement; conditionally certifies the class; approves the class notice as to form and content; and adopts the Proposed Order Granting Motion for Preliminary Approval of Class Action submitted by class counsel.

Counsel should appear on Zoom to set a motion for final approval of the settlement as to the proposed class action settlement, class counsel's fees and expenses, the class representative's enhancement award, and the administrator's fees and costs.

**Notice to prevailing parties:** Local Rule 2.10.01 requires you to submit a proposed formal order incorporating, verbatim, the language of any tentative ruling – or attaching and incorporating the tentative by reference - or an order consistent with the announced ruling of the Court, in accordance with California Rule of Court 3.1312. **Such proposed order is required even if the prevailing party submitted a proposed order prior to the hearing** (unless the tentative is simply to “grant”). Failure to comply with Local Rule 2.10.01 may result in the imposition of sanctions following an order to show cause hearing, if a proposed order is not timely filed.

**No. 23CV02998**

**DIARRA v. KELLY et al**

**MOTION FOR AN ORDER DECLARING CARSON KELLY'S JUDGMENT DEBT TO MARIAM DIARRA TO BE A COMMUNITY PROPERTY DEBT**

This continued motion is denied with prejudice.

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I. Background and motion

Diarra obtained a default judgment against Carson Kelly and Humanize Global, US, Inc. in the amount of \$40,718.24. According to the first amended complaint, Humanize, via Carson Kelly, hired Diarra as a consultant. However, she alleges she was an employee. The first amended complaint alleges various Labor Code violations, breach of contract against Humanize, violations of the Business and Professions Code, and violations of Code of Civil Procedure section 181.97. Carson Kelly is alleged to be the managing agent of Humanize Global. The court entered judgment against Carson Kelly and Humanize Global US, Inc. on March 11, 2024. An abstract of judgment was issued on March 18, 2024, in the amount of \$40,718.24 against Carson Kelly and a writ of execution issued on March 27, 2024 in the amount of \$40,925.58. Diarra asserts Carson Kelly has failed to satisfy the judgment.

Diarra, now as judgment creditor, moves the court to declare that the debt of Carson Kelly is a debt of the marital community of Carson and his wife Shannon Kelly for which the community property of both, including Shannon Kelly's wages, is liable and subject to garnishment and authorizing the issuance of a writ of execution in the names of Carson and Shannon Kelly. The motion is accompanied by declarations from Diarra and her counsel.

II. Discussion

This is the third time this matter has been before the Court. At the first hearing, on July 10, 2024, the court denied the motion without prejudice. Specifically, the Court stated in its tentative ruling that:

“Diarra has not made a sufficient showing in this motion as follows:

1. Evidence of a marriage between Shannon and Carson Kelly, including the date Carson and Shannon married. The only evidence are the vague statements from counsel and Diarra in their declarations.
2. Evidence that Humanize Global US, Inc. was community property, rather than the separate property of Carson Kelly.”

Diarra refiled the motion and filed a declaration, as did her attorney, stating that Carson Kelly told them that he was married to Shannon Kelly. Prior to the hearing, the Court issued its tentative ruling and denied the motion without prejudice, again finding Diarra had not provided sufficient evidence of a marriage between Carson and Shannon Kelly. The Court stated:

“The motion lacks evidentiary support to establish a marriage between Carson and Shannon Kelly at the time the debt was incurred. The declarations of both Diarra and Brown are based on hearsay.”

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At the hearing on December 18, 2024, the Court continued the hearing to February 4, 2025.

On January 8, 2025, Diarra filed a declaration from her attorney and a supplemental reply brief. The declaration from plaintiff's counsel provided an update on a recent payment received from Carson Kelly as well as his delinquency in making a promised payment at the end of last year. The reply brief simply states the declarations of Diarra and her counsel are not hearsay pursuant to Evidence Code section 1220. The Court disagrees. The motion is denied with prejudice, since this is plaintiff judgment creditor's third attempt on this motion, and it is abundantly clear that they will never develop satisfactory evidence for the factual predicate for the requested relief.

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