

## PROPOSED TENTATIVE

On April 15, 2020, plaintiff Portfolio Recovery Associates, LLC, as assignee from original creditor Synchrony Bank, filed a limited civil complaint for \$2,936.10, in common count, against defendant Francisca Pacheco. Defendant allegedly failed to pay the amount due on a credit account. Defendant, acting in propria persona, filed an answer. Court trial commenced on October 19, 2021; during trial, a settlement between the parties was reached; the settlement was detailed on the record orally and stipulated to by those authorized to enter into the agreement, including defendant,<sup>1</sup> who was physically present. On November 9, 2021, the parties filed a written stipulation with the court indicating that a full settlement had been reached, and that the court would dismiss the case but retain jurisdiction pursuant to Code of Civil Procedure section 664.6. The parties agreed that plaintiff would make a down payment of \$116.11 on or before November 18, 2021, and thereafter make a minimum payment of \$60 due before the 18<sup>th</sup> of each month. The court (Judge Staffel) signed the stipulation, expressly agreeing that the court would retain jurisdiction per Code of Civil Procedure, section 664.6 after dismissal. Dismissal was entered on November 9, 2021.

On January 31, 2024, plaintiff filed a “Notice of Intention to Request Entry of Judgment Under Stipulation,” as it appears defendant failed to pay according to the stipulated settlement agreement. On July 30, 2024, plaintiff filed a “Motion to Vacate Dismissal and Enter Judgment Under Terms of the Stipulated Settlement[,]” pursuant to Code of Civil Procedure section 664.6. Plaintiff asks the court to enter the agreed-upon settlement as a judgment as authorized per Code of Civil Procedure section 664.6, as plaintiff defaulted as of January 22, 2024, and now owes \$1,376.11. Plaintiff asks for costs of \$356 in addition to the principal owed, for a total judgment of \$1,732.11. Defendant was served with the motion on January 29, 2024, by mail, at 475 Dal Porto Ln. Santa Maria, California, 93458, which was plaintiff’s last known address (i.e., the address listed on defendant’s answer). No opposition has been submitted. Plaintiff will not appear at today’s hearing, as is permitted by California Rules of Court, rule 3.1304(c).

Plaintiff asks the court to take judicial notice of the stipulated agreement, referenced in Judge Staffel’s November 9, 2021, order. As there is no opposition, the court grants the request.

Where the statutory requirements are met, the court, upon motion, may enter judgment pursuant to the terms of the settlement agreement after dismissal, pursuant to Code of Civil Procedure section 664.6. A party moving for entry of judgment pursuant to this provision need not establish a breach of the settlement agreement, as the court is authorized to enter judgment

---

<sup>1</sup> Code of Civil Procedure section 664.6, amended effective January 1, 2021, allows attorneys to orally stipulate to a settlement on behalf of clients. This amendment “intended to eliminate the requirement . . . that the parties must personally sign or orally stipulate to settle a case. . . .” As one appellate court recently concluded, we hold “that, as applied to oral settlements stipulated before the court, current section 664.6 does not require that the parties themselves orally stipulate, and instead allows counsel for the parties to orally stipulate on their behalf.” (*Greisman v. FCA US, LLC* (Aug. 5, 2024, No. A166919) \_\_\_ Cal.App.5<sup>th</sup> \_\_\_ [2024 WL 3648293, at \*10.] [fact attorneys stipulated to the settlement agreement before the court was sufficient to allow enforcement pursuant to § 664.6].) The oral stipulations by plaintiff’s counsel and defendant at the October 19, 2021, hearing, before Judge Staffel, all after the effective amendment in Code of Civil Procedure section 664.6, was effective to allow enforcement.

pursuant to the settlement regardless of whether the settlement's obligations were performed or excused. (*Hines v. Lukes* (2008) 127 Cal.App.4<sup>th</sup> 1174, 1184-1185.) The court is empowered to enter judgment where the parties to a pending litigation stipulate to a settlement either orally before the court or in a writing signed by the parties or their counsel. If requested by the parties, the court may retain jurisdiction over the parties to enforce the settlement until performance is full of the settlement terms. (Code Civ. Proc., § 664.6(a).) When the settlement agreement and dismissal reserve for the trial court the authority to determine the prevailing party and to award costs and fees accordingly, the court has jurisdiction to award such costs and fees. (*Khavarian Enterprises, Inc. v. Commline, Inc.* (2013) 216 Cal.App.4<sup>th</sup> 310, 320; 329 [rule applies to § 664.6 motions].)

All statutory requirements of Code of Civil Procedure section 664.6 have been satisfied, as the parties entered into a valid and binding settlement agreement, and the court properly retained jurisdiction following dismissal to do so. Further, the stipulated written agreement expressly contemplates that the prevailing party is entitled to costs and fees, and plaintiff, as the prevailing party, requests costs of \$356, which is reasonable. This amount is reflected in the "Memorandum of Costs (Summary)" submitted by plaintiff on July 30, 2024, indicating costs of 1) \$261 for filing and motion fees; 2) \$65 for service; and 3) \$30 for court report fees established by statute.

Accordingly, the court grants the motion to vacate dismissal and enter judgment under terms of the stipulated agreement between the parties, in the amount of \$1,732.11. The court will sign the proposed order and judgment, and sign and enter judgment in this amount. The court directs the court to enter the signed judgment and to send the signed order and judgment to the parties.