

## PROPOSTED TENTATIVE

On November 1, 2021, plaintiffs Wayne Stewart and Mary Ann Stewart (collectively, plaintiffs) filed a complaint for financial elder abuse and undue enrichment against defendants Recovery Ranch, LLC, and Daniel Ross (collectively, defendants). Plaintiffs at the time the complaint was filed were 80 and 79 years of age, respectively. Briefly, according to the operative pleading, plaintiff paid defendants over \$36,000 for the care and board of their grandson. Despite plaintiffs' requests for an accounting of the charges billed and a return of any excess payments, defendants refused, and this lawsuit was filed. Defendants answered. Before trial, following mediation on February 2, 2024, the parties entered into a "Mediator's Agreement Memorandum," which culminated into a "Settlement and Release Agreement" signed on February 20, 2024. According to both the "Mediator's Agreement Memorandum," which was signed by both parties but not filed with the court (as it was confidential), as well as the February 20, "Settlement and Release Agreement" signed on February 20, 2024, defendants agreed to pay plaintiffs \$25,000, with an initial payment of \$20,000 and a final payment of \$5,000 (the last to payment was to be made by February 2, 2025). Paragraph 6 of the "Mediator's Agreement Memorandum" expressly indicates that the court will retain jurisdiction over the matter pursuant to Code of Civil Procedure<sup>1</sup> section 664.6. Paragraph 7 of the "Settlement and Release Agreement" references Appendix A, which in turn is the "Mediator's Agreement Memorandum" and which incorporates all terms from the latter. There has been no dismissal of the complaint.

On March 5, 2025, plaintiffs filed a "Motion to Enforce Settlement Agreement" pursuant to section 664.6. Attached to the motion is a declaration from attorney Edwin Loskamp, indicating that defendants made the first payment of \$20,000, but failed to pay the remaining \$5,000 as agreed. According to plaintiffs, defendants have failed to give any assurances that payment will be forthcoming. Plaintiffs served defendants' attorney of record with the motion by email on March 5, 2025. No opposition has been filed.

Section 664.6 provides a summary procedure for entering judgment under the terms of a settlement agreement. (*Pearson v. Superior Court* (2012) 202 Cal.App.4th 1333, 1337; *In re The Clergy Cases I* (2010) 188 Cal.App.4th 1224, 1236.) Pursuant to this provision, when the parties stipulate to settle pending litigation, the trial court may enter judgment pursuant to the terms of the settlement. (§ 664.6, subd. (a).) The parties requested the court to retain jurisdiction and to utilize the statutory procedure in the February 2, 2024, "Mediation Agreement[.]" which was incorporated into the "Settlement and Release Agreement" (*Wackeen v. Malis* (2002) 97 Cal.App.4th 429, 439), and the request was made during the pendency of the case, by the parties themselves, and in a writing signed by the parties. (*Mesa RHF Partners, L.P. v. City of Los Angeles* (2019) 33 Cal.App.5th 913.) The parties detailed the agreement before the court on February 2, 2024. (*Ibid.*)

The court is authorized to enter judgment pursuant to the settlement regardless of whether the settlement's obligations were performed or excused. (*Hines v. Lukes* (2008) 167 Cal.App.4th 1174, 1184-1185; see also *Pearson v. Superior Court* (2012) 202 Cal.App.4th 1333, 1337.) This means the trial court may enter judgment pursuant to the terms of the settlement. (§ 664.6, subd.

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<sup>1</sup> All further statutory references are to the Code of Civil Procedure.

(a); *Harris v. Rudin, Richman & Appel* (1999) 74 Cal.App.4th 299, 304.) “In order to take advantage of the statute's expedited procedure, a party must first establish the agreement at issue was set forth ‘in a writing signed by the parties’ [citation] or was made orally before the court.” (*Ibid.*) When the settlement agreement and dismissal reserve for the trial court the authority to determine the prevailing party and to award costs, the court has jurisdiction to award such costs and fees. (*Khavarian Enterprises, Inc. v. Commline, Inc.* (2013) 216 Cal.App.4th 310, 320.)

All requirements per section 664.6 have been satisfied. Further, it appears defendants have paid \$20,000, and presently owe \$5,000, and have failed to make payment as agreed. The court finds it has authority to enter judgment for the amount owing per the settlement agreement. Additionally, the settlement agreement contemplates “that the prevailing party in any future dispute” regarding the Settlement and Release Agreement “shall be entitled to recover all attorney’ fees and costs incurred.” Plaintiff asks only for attorney’s fees of \$1,125, based on 2.5 hours to date and an anticipated 2 hours for the hearing and opposition. This amount is authorized by the settlement agreement and otherwise seems reasonable.

The court grants the motion to enter the settlement agreement as judgment in the amount of \$5,000 plus \$1,125 in attorney’s fees, for a total judgment amount of \$6,125. The court directs plaintiff’s counsel to submit a proposed order and judgment for signature. If defendant does not appear, the court directs the clerk to send the court’s order today (along with any minute order) to both parties.