5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 PIVAK LAW 24 Employee Kights Attorneys 25 8505 Santz Monica Bi PM8 42554 lest Hallywood, CA 90069 26 (213) 725-9094 Tel (213) 634 2485 Fax Spivaktiew com-27 Office 15305 Ventura Bl 28 Sto 500 Sherman Oaks, CA 90403

1 DAVID G. SPIVAK (SBN 179684) david@spivaklaw.com 2 MAYA CHEAITANI (SBN 335777) maya@spivaklaw.com 3 CHRISTINA J. PREJEAN (SBN 314772) christina@spivaklaw.com 4 THE SPIVAK LAW FIRM 8605 Santa Monica Bl PMB 42554 West Hollywood, CA 90069 Telephone: (213) 725-9094 Facsimile: (213) 634-2485

Attorneys for Plaintiff(s),



FOR THE COUNTY OF SAN FRANCISCO

SUPERIOR COURT OF THE STATE OF CALIFORNIA

(UNLIMITED JURISDICTION)

CRISTINA JAOCHICO, on behalf of herself, all others similarly situated, the general public, and as an "aggrieved employee" on behalf of other "aggrieved employees" under the Labor Code Private Attorneys General Act of 2004,

CRISTINA JAOCHICO, and all others similarly situated

Plaintiff(s),

CARITAS MANAGEMENT CORP., California corporation; and DOES inclusive,

Defendant(s).

Case No. CGC-19-575243

[PROPOSED] ORDER PREZIMINARILY APPROVING CLASS ACTION SETTLEMENT



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The Motion of Plaintiff Cristina Jaochico (hereafter referred to as "Plaintiff") for Preliminary Approval of a Class Action Settlement (the "Motion") was considered by the Court, Vedica Puri presiding. The Court having considered the Motion, the Joint Stipulation of Class Action Settlement and Release of Claims ("Settlement" or "Settlement Agreement"), and supporting papers, HEREBY ORDERS THE FOLLOWING:

- Attached hereto as "Exhibit 1" is a true and correct copy of the Court's Tentative Ruling.
- 2. The Court grants preliminary approval of the Settlement and the Settlement Class based upon the terms set forth in the Settlement filed as an Exhibit to the Motion for Preliminary Approval. All terms herein shall have the same meaning as defined in the Settlement. The Court has determined there is sufficient evidence to preliminarily determine that (a) the terms of the Settlement appear to be fair, adequate, and reasonable to the Settlement Class and (b) the Settlement falls within the range of reasonableness and appears to be presumptively valid, subject only to any objections that may be raised at the final hearing and final approval by this Court. The Court will make a determination at the hearing on the motion for final approval of class action settlement (the "Final Approval Hearing") as to whether the Settlement is fair, adequate and reasonable to the Settlement Class.
- 3. For purposes of this Preliminary Approval Order, the "Settlement Class" means all persons hourly, non-exempt desk clerk in California (collectively "Class Members"), who worked anytime during the Class Period. The "Class Period" shall mean the period of time from April 12, 2015, through the date of preliminary Court-approval of this Settlement. Defendant estimates that as of the date of preliminary Court-approval of this Settlement, there were 155 potential Settlement Class Members. The "Effective Date" means as follows: If no objection to

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this Settlement or to any of the terms and or conditions of the Settlement are filed by Plaintiff, another member of the Settlement class, or any intervenor to this Lawsuit, the Effective Date shall occur on the day that the Court enters an order of final approval of this Settlement; however, if any objection to this Settlement or to any of the terms and or conditions of the Stipulation is filed by a member of the Settlement class, or any intervenor to this Lawsuit, the Effective Date shall occur upon the expiration of the time for the filing any appeal of the order of final approval of this Settlement. If an appeal is filed or any writ granted, then the Effective Date shall occur after the appeal has been dismissed or the writ dissolved and when there is no further time to appeal the dismissal of the appeal or the dissolution of the writ. The occurrence of the Effective Date is a prerequisite to any obligation of Defendant to pay any funds into the Settlement account.

- 4. This action is provisionally certified pursuant to section 382 of the California Code of Civil Procedure and Rule 3.760, et seq. of the California Rules of Court as a class action for purposes of settlement only with respect to the proposed Settlement Class.
- 5. The Court hereby preliminarily finds that the Settlement was the product of serious, informed, non-collusive negotiations conducted at arm's length by the Parties. In making this preliminary finding, the Court considered the nature of the claims set forth in the pleadings, the amounts and kinds of benefits which shall be paid pursuant to the Settlement, the allocation of Settlement proceeds to the Settlement Class, and the fact that the Settlement represents a compromise of the Parties' respective positions. The Court further preliminarily finds that the terms of the Settlement have no obvious deficiencies and do not improperly grant preferential treatment to any individual Class Member. Accordingly, the Court preliminarily finds that the Settlement was entered into in good faith.
 - 6. The Court finds that the dates set forth in the Settlement for mailing and

distribution of the Class Notice meet the requirements of due process and provide the best notice practicable under the circumstances, and constitute due and sufficient notice to all persons entitled thereto, and directs the mailing of the Class Notice by first class mail and, where available, email to the Settlement Class as set forth in the Settlement. Accordingly, the Court orders the following implementation schedule for further proceedings:

Defendant shall provide CPT Group, Inc., the appointed Settlement Administrator, with: (a) An electronic database of all Class Members, last known mailing address, email address (where available), Social Security number and Defendant's employee identification number ("Class Members' Data"); and (b) Corresponding to each Class Member's name, Defendant shall provide a figure indicating the total number of Individual Member Employment Weeks during the Class Period in which Defendant employed the class Member. That number of Individual Member Employment Weeks shall be referred to as that Class Member's "Individual Member Employment Weeks;" (c) If any of the Class Members' Data are unavailable to Defendant, Defendant will so inform Class Counsel and the Parties will make their best efforts to reconstruct or otherwise agree upon the Class Members' Data prior to when it must be submitted to the Settlement Administrator. Class Members' Data will otherwise remain confidential and will not be disclosed to anyone, except as necessary to applicable taxing authorities, or pursuant to Defendant's express written authorization or by order of the Court.

b. **Mailing of Class Notice.** Approximately fourteen (14) days after receiving the Class Members' Data, or as soon thereafter as it can do so, the Settlement

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Administrator will mail the Class Notice to all identified Class Members via first-class U.S. mail using the mailing address information provided by Defendant, unless modified by any updated address information that the Settlement Administrator obtains in the course of administration of the Settlement.

- Returned Class Notice. If a Class Notice is returned because of an incorrect address, the Settlement Administrator will promptly, and not later than ten (10) days from receipt of the returned Class Notice, search for a more current address for the Class Member and re-mail the Class Notice to the Class Member. The Settlement Administrator will use the Class Members' Data and otherwise work with Defendant's Counsel and Class Counsel to find a more current address. The Settlement Administrator will be responsible for taking reasonable steps, consistent with its agreed-upon job parameters, court orders, and fee, to trace the mailing address of any Class Member for whom a Class Notice is returned as undeliverable by the U.S. Postal Service. These reasonable steps shall include the tracking of all undelivered mail; performing address searches for all mail returned without a forwarding address; and promptly re-mailing to Class Members for whom new addresses are found. If the Class Notice is re-mailed, the Settlement Administrator will note for its own records and notify Class Counsel and Defendant's Counsel of the date and address of each such re-mailing as part of a weekly status report provided to the Parties.
- d. Declaration of Settlement Administrator. Not later than twenty-one (21)

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Office: 15305 Ventura 8

Sto 900 Sherman Oaks, CA 91403 court days prior to the Final Approval Hearing, the Settlement Administrator will provide the Parties for filing with the Court a declaration of due diligence setting forth its compliance with its obligations under this Agreement. Prior to the Final Approval Hearing, the Settlement Administrator will supplement its declaration of due diligence if any material changes occur from the date of the filing of its prior declaration.

- e. Requests for Exclusion from Settlement; and Objections to Settlement.

 Class Members may submit requests to be excluded from the effect of the Settlement, or objections to the Settlement, pursuant to the following procedures:
 - i. Request for Exclusion from Settlement. A Class Member may request to be excluded from the effect of this Agreement, and any payment of amounts under this Agreement, by timely email to the Settlement Administrator or mailing a letter to the Settlement Administrator stating that the Class Member wants to be excluded from this Action. This letter must include the Class Member's name, address, telephone number, and signature. To be valid and timely, the request to be excluded must be postmarked by the date specified in the Class Notice (60 days from the initial mailing of the Class Notice by the Settlement Administrator). A Class Member who properly submits a valid and timely request to be excluded from the Action shall not receive any payment of any kind in connection with this Agreement or this Action, shall not be bound by or receive any benefit of this

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Agreement, and shall have no standing to object to the Settlement. A request for exclusion must be mailed to the Settlement Administrator at the address provided on the Class Notice. The Settlement Administrator shall transmit the request for exclusion to counsel for the Parties as follows:

To Class Counsel:

To Defense Counsel:

David G. Spivak, Esq. The Spivak Law Firm 8605 Santa Monica Bl PMB 42554 West Hollywood, CA 90069 david@spivaklaw.com

Dorothy S. Liu
Hanson Bridgett, LLP
Dorothy S. Liu Esq.
425 Market Street
26th Floor
San Francisco, CA 94105
dliu@hansonbridgett.com

Class Member who does not request exclusion from the Action and who wishes to object to the Settlement should submit an objection in writing to the Settlement Administrator by 60 days after the Settlement Administrator mails the Class Notice, a written objection to the Settlement which sets forth the grounds for the objection and the other information required by this paragraph. The objection should be emailed to the Settlement Administrator or mailed to the Settlement Administrator at the address provided on the Class Notice. The Settlement Administrator shall transmit the objections to counsel for the Parties as follows:

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To Class Counsel:

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David G. Spivak, Esq. The Spivak Law Firm 8605 Santa Monica Bl PMB 42554 West Hollywood, CA 90069 david@spivaklaw.com To Defense Counsel:

Dorothy S. Liu
Hanson Bridgett, LLP
Dorothy S. Liu Esq.
425 Market Street
26th Floor
San Francisco, CA 94105
dliu@hansonbridgett.com

The written objection should state the objecting Class Member's full name, address, and the approximate dates of his or her employment with Defendant. The written objection should state the basis for each specific objection and any legal support in clear and concise terms. The written objection also should state whether the Class Member intends to formally intervene and become a party of record in the action, and upon formally intervening, appear and argue at the Final Approval Hearing. However, the objectors will be provided with the opportunity to speak at the final approval hearing regardless of whether they have filed an appearance or submitted a written opposition beforehand.

If the objecting Class Member does not formally intervene in the action and/or the Court rejects the Class Member's objection, the Class Member may still be bound by the terms of this Agreement.

f. **Report.** Not later than fourteen (14) days after the deadline for submission of requests for exclusion, the Settlement Administrator will provide the Parties with a complete and accurate list of all Class Members who sent timely requests to be excluded from the Action and all Class Members who objected to the settlement.

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- 7. The Court approves, as to form and content, the Class Notice in substantially the form attached as Exhibit A to the Settlement, the Exclusion Request form in substantially the form attached as Exhibit B to the Settlement, and the Individual Member Employment Weeks Dispute form in substantially the form attached as Exhibit C to the Settlement. Class Members may submit disputes by email to the Settlement Administrator.
- 8. The Court approves, for settlement purposes only, David Spivak of The Spivak Law Firm and Walter L. Haines of United Employees Law Group as Class Counsel.
- 9. The Court approves, for settlement purposes only, Cristina Jaochico as the Class Representative.
 - 10. The Court approves CPT Group, Inc. as the Settlement Administrator.
- 11. The Court preliminarily approves Class Counsel's request for attorneys' fees and costs subject to final review by the Court.
- 12. The Court preliminarily approves the estimated Settlement Administrator costs payable to the Settlement Administrator subject to final review by the Court.
- 13. The Court preliminarily approves Plaintiff's Class Representative Payment subject to final review by the Court.
- 14. A Final Approval Hearing shall be held on 12 30 at 1:30 .m. in the Superior Court for the State of California, County of San Francisco, located at Civic Center Courthouse, 400 McAlister Street, San Francisco, CA 94102-3680 to consider the fairness, adequacy and reasonableness of the proposed Settlement preliminarily approved by this Preliminary Approval Order, and to consider the application of Class Counsel for attorneys' fees and costs and the Class Representative Payment to the Class Representative. The notice of motion and all briefs and materials in support of the motion for final approval of class action settlement

15. If for any reason the Court does not execute and file a final approval order and judgment, or if the Effective Date, as defined in the Settlement, does not occur for any reason, the proposed Settlement that is the subject of this order, and all evidence and proceedings had in connection therewith, shall be without prejudice to the status quo ante rights of the Parties to the litigation, as more specifically set forth in the Settlement.

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	1	16. The Court expressly re	eserves the right to adjourn or continue the Final Approval				
2 3 4		Hearing from time to time without further notice to members of the Class. The Plaintiff shall give prompt notice of any continuance to Settlement Class Members who object to the Settlement. APPROVED AS TO FORM AND CONTENT:					
					5		
					6		THE SPIVAK LAW FIRM
	7	Dated: 11 / 08 / 2022	By:				
	8		DAVID SPIVAK				
	9		MAYA CHEAITANI Attorneys for Plaintiff, CRISTINA				
	10		JAOCHICO				
	11						
	12	APPROVED AS TO FORM AND (CONTENT:				
			HANSON BRIDGETT LLP				
چ	13	Dated: November 8, 2022					
- <u>-</u> -	14	a serie housely suggested for	DOROTHY S. LIU				
	15		EMILY J. LEAHY				
	16		JOSUE R. APARICIO Attorneys for Defendant, CARITAS				
	17		MANAGEMENT CORPORATION				
	18						
	19	IT IS SO ORDERED.	•				
	20	1/12/22					
	21	DATED: 11117 22	THE HONORABLE VEDICA PURI				
	22		JUDGE OF THE SUPERIOR COURT				
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3,9362 Ventora Bi Ste 980 Sherman Galis, CA 9 1408	28	Janchico y Caritas Management Corp. et e	11 [Proposed] Order Preliminarily Approving Class				

[Proposed] Order Preliminarily Approving Class

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EXHIBIT 1

8/18/22, 1:34 PM

Tentative Rulings 8/

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CHESTELL LESS COUNTRE LA SE

Case Title

CRISTINA JAOCHICO VS. CARITAS MANAGEMENT CORPORATION ET AL

Court Date:

AUG-19-2022 09:30 AM

Calendar Matter:

Notice Of Motion And Motion For Preliminary Approval Of Class Action Settlement

Rulings:

Matter on calendar for Friday, August 19, 2022. Line 1 PLAINTIFF CRISTINA JAOCHICO'S Motion For Preliminary Approval Of Class Action Settlement.
"THE COURT'S FULL AND COMPLETE TENTATIVE RULING HAS BEEN EMAILED TO ALL COUNSEL* A hearing is required on Plaintiffs motion for preliminary approval of class action settlement and related relief as to the issues set forth in the email sent to counsel. For the 9:30 a.m. Law & Motion calendar, all attorneys and parties may appear in Department 302 remotely. Remote hearings will be conducted by videoconference using Zoom. To appear remotely at the hearing, go to the court's website at sisuperiorcourt.org under "Online Services," navigate to "Tentative Rulings," and click on the appropriate link, or dial the corresponding phone number. Any party who contests a tentative ruling must send an email to contestdept302tr@sftc.org with a copy to all other parties by 4pm stating, without argument, the portion(s) of the tentative ruling that the party contests. The subject line of the email shall include the line number, case name and case number. The text of the email shall include the name and contact information, including small address, of the atterney or party who will appear at the hearing. Counsel for the prevailing party is required to prepare a proposed order which repeats verbatim the substantive portion of the lentative ruling and must email it to contestdept302tr@sftc.org prior to the hearing even if the tentative ruling is not contested. The court no longer provides a court reporter in the Law & Motion Department. Parties may retain their own reporter, who may appear in the courtroom or remotely. A retained reporter must be a California certified court reporter (CSR), for only a CSR's transcript may be used in California courts. If a CSR is being retained, include in your email address = (302/VP)

Case Number:

CGC19578723

Case Title:

ROBERT MCCULLOUGH VS. SAN FRANCISCO GENERAL HOSPITAL ET AL

••••

AUG-19-2022 09:30 AM

Calendar Matter:

MOTION FOR SUMMARY ADJUDICATION By Defendant The Regents Of The University Of California

Rulings;

Matter on calendar for Friday, August 19, 2022, Line 2 1. DEFENDANT THE REGENTS OF THE UNIVERSITY OF CALIFORNIA'S MOTION FOR SUMMARY ADJUDICATION, Off calendar, Request for dismissal of entire action filed by plaintiff on 8/3/22. = (302/VP)

Case Number:

CGC19578723

Case Title:

ROBERT MCCULLOUGH VS. SAN FRANCISCO GENERAL HOSPITAL ET AL

Court Date:

AUG-19-2022 09:30 AM

Calendar Matter:

MOTION FOR SUMMARY JUDGMENT Or, In The Alternative, Summary Adjudication

Rulinas:

Matter on celendar for Friday, August 19, 2022, Line 2 2. DEFENDANT CITY AND COUNTY OF SAN FRANCISCO'S MOTION FOR SUMMARY JUDGMENT Or, In The Alternative, Summary Adjudication. Off celendar. Request for dismissal of entire action filed by plaintiff on 8/3/22. = (302/VP)

Case Number:

CGC19578723

Case Title:

ROBERT MCCULLOUGH VS. SAN FRANCISCO GENERAL HOSPITAL ET AL

Court Date:

AUG-19-2022 09:30 AM

Calendar Matter:

MOTION FOR SUMMARY ADJUDICATION Amended Notice Of Motion And Motion For Summary Adjudication By Defendant The Regents Of The

University Of California

Rulings:

Matter on calendar for Friday, August 19, 2022, Line 2 4. DEFENDANT THE REGENTS OF THE UNIVERSITY OF CALIFORNIA'S MOTION FOR SUMMARY ADJUDICATION. Off calendar. Request for dismissal of entire action filed by plaintiff on 8/3/22. = (302/VP)

Case Number:

CGC19579536

Case Title:

JANE DOE VS. THE BRANDEIS SCHOOL OF SAN FRANCISCO ET AL

Court Date:

AUG-19-2022 09:00 AM

Calendar Matter:

Notice Of Motion And Plaintiff Jane Doe'S Motion To Compet The Deposition Of Lawrence Russo And Discovery Responses By Lawrence Russo And For Sanctions

Rulings:

Matter on the Discovery Calendar for Friday, August 19, 2022, Line 2, 2- PLAINTIFF JANE DOE's Motion To Compet The Deposition Of Lewrence Russo And Discovery Responses By Lawrence Russo And For Sanctions (Part 1 of 2 for purposes of entry of Tentative Ruling). Pro Tem Judge Paul Renne, a member of the California State Bar who meets all the requirements set forth in CRC 2.812 to serve as a temporary judge, has been assigned to hear this motion. Prior to the hearing all parties to the motion will be asked to sign a stipulation agreeing that the motion may be heard by the Pro Tem Judge. If all parties to the motion sign the stipulation, the hearing will proceed before the Judge Pro Tem who will decide the motion with the same authority as a Superior Court Judge. If a party appears by telephone, the stipulation may be signed via fax or consent to sign given by email. If not all parties to the motion sign the stipulation, the Pro Tem Judge will hold a hearing on the motion and, based on the papers submitted by the parties and the hearing, issue a report in the nature of a recommendation to the Dept. 302 Judge, who will then decide the motion. If a party does not appear at the hearing, the party will be deemed to have stipulated that the motion will be decided by the Pro Tern Judge with the same authority as a Superior Court Judge. The Pro Tern Judge has issued the following tentative ruling: PLAINTIFF'S MOTION TO REQUIRE THE DEPOSITION OF DEFENDANT RUSSO AND RESPONSES TO HER DISCOVERY REQUESTS IS GRANTED AS FOLLOWS: (1) WITHIN TEN (10) DAYS FROM THE DATE OF THIS ORDER DEFENDANT RUSSO WILL SUBMIT TO A REMOTE DEPOSITION AT A TIME AND PLACE AGREED TO BY THE PARTIES IN ADVANCE OF THE HEARING ON AUGUST 19, 2022, WHICH DATE SHOULD BE SPECIFIED IN THE COURT'S ORDER. (2) WITHIN TWENTY (20) DAYS DEFENDANT RUSSO WILL SERVE PLAINTIFF WITHOUT OBJECTION, SAVE AS TO A CLAIM OF A/C PRIVILEGE OR PRIVACY, FULL AND COMPLETE RESPONSES TO THE REQUESTS FOR PRODUCTION OF DOCUMENTS, SPECIAL INTERROGATORIES AND FORM INTERROGATORIES AND REQUESTS FOR ADMISSION. TO THE EXTENT THAT DEFENDANT RUSSO IS WITHHOLDING ANY RESPONSIVE DOCUMENT HE WILL IDENTIFY EACH DOCUMENT WITH SUFFICIENT SPECIFICITY TO ALLOW PLAINTIFF TO CHALLENGE THE CLAIM OF PRIVILEGE OR PRIVICY. TO THE EXTENT THAT DEFENDANT RUSSO HAS PREVIOUSLY PRODUCED A DOCUMENT IN RESPONSE TO HIS DEPOSITION. HE NEED NOT DUPLICATE IT IN

Counsel:

Due to the court website's character limitations, we are emailing the parties directly with the below tentative ruling in its entirety for the matter set for hearing on August 19, 2022 at 9:30 am. In Dept. 302.

A hearing is required on Plaintiff's motion for preliminary approval of class action settlement and related relief as to the following issues:

- 1. The Court cannot find that the manner of notice proposed (e.g., first-class mail only) is the best notice practicable under the circumstances. Notice shall be provided to class members both by first-class mail and, where available, by email. Defendant shall provide all known email addresses of class members to the settlement administrator with the other information required for class notice.
- 2. Class members shall also be entitled to submit objections to their notice of estimated settlement share, requests for exclusion, and objections to the proposed settlement by email.
- 3. If these additional requirements affect the estimated costs of administration, the parties shall update the estimated cost, which shall be capped in the settlement agreement at a "not to exceed" amount rather than a projected amount.
- 4. The final approval motion should include a declaration of the class representative detailing her participation in the litigation, including an estimate of the number of hours spent doing so. (See *In re Cellphone Termination Fee Cases* (2010) 186 Cal.App.4th 1380, 1394-1395.) A \$10,000 payment to the class representative seems reasonable.
- 5. The final approval motion should also include a declaration of counsel setting forth a factual showing by counsel sufficient to allow the Court to conduct a lodestar crosscheck. (See *Laffitte v. Robert Half International, Inc.* (2016) 1 Cal.5th 480, 505-506.)

Counsel shall appear to address these issues and the scheduling of the final fairness hearing.

In addition, the court will execute the parties proposed stipulation and order allowing for the filing of the second amended complaint.

For the 9:30 a.m. Law & Motion calendar, all attorneys and parties may appear in Department 302 remotely. Remote hearings will be conducted by videoconference using Zoom. To appear remotely at the hearing, go to the court's website at <u>sfsuperiorcourt.org</u> under "Online Services," navigate to "Tentative Rulings," and click on the appropriate link, or dial the corresponding phone number.

Any party who contests a tentative ruling must send an email to contestdept302tr@sftc.org with a copy to all other parties by 4pm stating, without argument, the portion(s) of the tentative ruling that the party contests. The subject line of the email shall include the line number, case name

and case number. The text of the email shall include the name and contact information, including email address, of the attorney or party who will appear at the hearing. Counsel for the prevailing party is required to prepare a proposed order which repeats verbatim the substantive portion of the tentative ruling and must email it to contestdept302tr@sftc.org prior to the hearing even if the tentative ruling is not contested.

The court no longer provides a court reporter in the Law & Motion Department. Parties may retain their own reporter, who may appear in the courtroom or remotely. A retained reporter must be a California certified court reporter (CSR), for only a CSR's transcript may be used in California courts. If a CSR is being retained, include in your email all of the following: their name, CSR and telephone numbers, and their individual work email address.