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Section 664.6, Again?

Most settlement agreements include a dismissal of the entire action, with the court to retain jurisdiction under Code of Civil Procedure section 664.6 to enforce the settlement terms. The process under section 664.6 need not be complex, but requires strict compliance, as illustrated in *Mesa RHF Partners LP v. City of Los Angeles* (2019) 33 Cal.App.5th 913.

A request for the trial court to retain jurisdiction under section 664.6 has three requirements: The request must be made (1) during the pendency of the case, not after the case has been dismissed in its entirety; (2) by the parties themselves; and (3) either in a writing signed by the parties or orally before the court. (*Wackeen v. Malis* (2002) 97 Cal.App.4th 429, 440.)

In *Mesa*, the parties filed a request for dismissal on Judicial Council form CIV-110 with the following language inserted into the dismissal form: “The Court shall retain jurisdiction to enforce the settlement agreement per Code of Civil Procedure § 664.6.” A deputy clerk entered the dismissal “as requested” on the same day. The Court of Appeal found that the parties did not comply with section 664.6 because the requests for dismissal “were not signed by the ‘parties,’ (or even a single party.)” The requests for dismissal were signed only by an attorney.

A party argued that the settlement agreements, which were never presented to the trial court before the parties requested dismissal, were the request, and that request was then communicated to the trial court via the Judicial Council form CIV-110. The Court of Appeal disagreed, and found that the settlement agreements were not attached to the Judicial Council form requests for dismissal or otherwise transmitted to the trial court before the cases were dismissed.

The court offered two tips to correctly invoke section 664.6:

1. File a stipulation and proposed order with a copy of the settlement agreement and request that the trial court retain jurisdiction under section 664.6; or
2. File a stipulation and proposed order signed by the parties noting the settlement and request that the trial court retain jurisdiction under section 664.6.

A request for the court to retain jurisdiction under section 664.6 is not made by a secret handshake of the parties in their settlement agreement. The request must be express, not implied, and filed with the trial court before the dismissal deprives the court of that jurisdiction.