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Is your Settlement Agreement Enforceable by the Court? California CCP 664.6 and Pending Litigation.

California law provides a convenient way for parties in a lawsuit who reach a settlement to allow the court to enforce the settlement agreement, even if the settlement will take years to perform. Code of Civil Procedure section 664.6 provides that if parties to pending litigation agree in a signed writing to settle the case, the court may, on the motion of a party, enter judgment pursuant to the settlement, and retain jurisdiction to enforce it.

A losing defendant recently found out that the the key words in this code section are "pending litigation." He had a large money judgment against him, and two years later the winning plaintiff was levying his bank account. The parties entered negotiations for payment of the debt for less then the full amount of the judgment. Ultimately the creditor continued to go after the money, and the defendant brought a motion under 664.6, claiming they had reached a settlement.

The court denied it, pointing out that the case already had ended in a judgment that was final. There was no pending lawsuit. The law only allows one final judgment, and the only thing 664.6 allows is entering a judgment. The court contrasted this situation with post-divorce child support matters- there, the judgment usually provides for "continuing jurisdiction," meaning that this is not the final judgment.

This defendant wasted time and money in appealing, when he had other ways to enforce the settlement agreement, if there really was one. He could have filed a new lawsuit to enforce the contract. Or he could have filed a motion under CCP section 724.050(d) to compel the creditor to acknowledge the judgment was satisfied. In this motion the judge could determine whether a settlement agreement had been reached.

Walton v. Mueller (12/15/09) Cal. Ct of Appeal 6th District #H034058