TENTATIVE RULINGS for CIVIL LAW and MOTION
March 26, 2010

Pursuant to Yolo County Local Rules, the following tentative rulings will become the order of the court unless, by 4:00 p.m. on the court day before the hearing, a party requests a hearing and notifies other counsel of the hearing. To request a hearing, you must contact the clerk of the department where the hearing is to be held. Copies of the tentative rulings will be posted at the entrance to the courtroom and on the Yolo Courts Website, at www.yolo.courts.ca.gov. If you are scheduled to appear and there is no tentative ruling in your case, you should appear as scheduled.

Telephone number for the clerk in Department Fifteen: (530) 406-6941

TENTATIVE RULING

Case: **Capital One Bank v. Alistar**
Case No. CV G 09-1846
Hearing Date: **March 26, 2010** **Department Fifteen** **9:00 a.m.**

The first amended complaint that the Clerk erroneously filed on November 30, 2009, is **STRICKEN** on the Court's own motion. (Code Civ. Proc., § 472.) The Clerk is directed to strike this pleading.

A motion to amend a pleading before trial must include a copy of the proposed amendment or amended pleading. (Cal. Rules of Court, rule 3.1324(a).) A copy of the proposed amended complaint was not submitted with the plaintiff's motion. Plaintiff may request oral argument and appear at the hearing to request a continuance of this matter so that the plaintiff may submit the proposed first amended complaint and timely serve the defendant with a copy of such. If the plaintiff does not request a continuance, the Court will deny the plaintiff's motion without prejudice.

If no hearing is requested, this tentative ruling is effective immediately. No formal order pursuant to California Rules of Court, rule 3.1312 or further notice, except as described herein, is required.

TENTATIVE RULING

Case: **Hernandez v. Yolo County**
Case No. CV CV 08-2690
Hearing Date: **March 26, 2010** **Department Fifteen** **9:00 a.m.**

The court has considered all of the papers filed. Counsel must comply with the requirements of the Code of Civil Procedure, including those provisions governing the deadline for the filing of papers (Code Civ. Proc., § 1005, subd. (b)). The Court will not consider late-filed papers in the future.

Defendants' motion for a protective order and for monetary sanctions is **DENIED**. (Code Civ. Proc., § 2025.420.) Defendants failed to establish "undue burden".

To minimize any inconvenience to the deponent and based on the plaintiff's offer, Mindi Nunes' deposition shall be taken in Woodland. Plaintiff's counsel shall provide written notice to defense counsel and anyone else entitled to notice of the location for Ms. Nunes' deposition **by March 29, 2010**.

If no hearing is requested, this tentative ruling is effective immediately. No formal order pursuant to California Rules of Court, rule 3.1312 or further notice, except as provided herein, is required.

TENTATIVE RULING

Case:	**Hipskind v. Vasquez** **Case No. CV PO 09-1241**		
Hearing Date:	**March 26, 2010**	**Department Fifteen**	**9:00 a.m.**

Defendant's motion to bifurcate the liability and damages issues in the complaint is **DENIED**. (Code Civ. Proc., § 598.) This action is not complex. It has not been shown that bifurcation would save significant time and resources. *Cohn v. Bugas* (1974) 42 Cal.App.3d 381 is factually distinguishable.

If no hearing is requested, this tentative ruling is effective immediately. No formal order pursuant to California Rules of Court, rule 3.1312 or further notice is required.

TENTATIVE RULING

Case:	**Patel v. Aurora Loan Services, LLC** **Case No. CV CV 09-1157**		
Hearing Date:	**March 26, 2010**	**Department Fifteen**	**9:00 a.m.**

The unopposed demurrer is **SUSTAINED WITH LEAVE TO AMEND**. (Code Civ. Proc., § 430.10, subd. (f)). The complaint is so uncertain that the defendant cannot be expected to respond to it. Paragraph 10 of the complaint accuses the defendant of discrimination for refusing to modify the plaintiff's loan. However, the basis for this claim is not stated. Plaintiff also appears to complain about insults by persons who spoke to him when he called "Aurora fraud hotlines." It is unclear what this entity is and what cause(s) of action the plaintiff is trying to state against the defendant in the complaint.

Defendant shall serve Plaintiff with a copy of this ruling by March 29, 2010. Plaintiff shall file his amended complaint **by no later than April 30, 2010**.

If no hearing is requested, this tentative ruling is effective immediately. No formal order pursuant to California Rules of Court, rule 3.1312 or further notice, except as provided herein, is required.

TENTATIVE RULING

Case: **Robinson v. Throne**
Case No. CV CV 09-191

Hearing Date: **March 26, 2010** **Department Fifteen** **9:00 a.m.**

Defendant Don Throne's motion to vacate the temporary restraining order dated February 6, 2009, is **DENIED**. (Code Civ. Proc., § 533.) Defendant has not shown that there has been a material change in the facts upon which the temporary restraining order was granted and at the time the temporary restraining order was issued, defendant did not demonstrate that he had any interest in the property. (Code Civ. Proc., § 515.010, subd. (b).)

Plaintiff's objections to paragraphs 6, 7, 11, 12, 13, and 15 of the Declaration of Don Throne are **SUSTAINED**. (Evid. Code, §§ 1200, 1400 and 1401.) Plaintiff's objections to paragraphs 5, 6, 8, and 9 of the Declaration of James Richards are **SUSTAINED**. (Evid. Code, § 1200.)

If no hearing is requested, this tentative ruling is effective immediately. No formal order pursuant to California Rules of Court, rule 3.1312 or further notice is required.

TENTATIVE RULING

Case: **In re claim of Devante Johnson Silva**
Case No. CV P2 09-191

Hearing Date: **March 26, 2010** **Department Fifteen** **9:00 a.m.**

The petitioner and the minor are directed to appear at the hearing or to show good cause why the petitioner and minor should not be required to appear. (Cal. Rules of Court, rule 7.952.) If the petitioner and the minor choose to show good cause, they should do so by filing a declaration before the hearing setting forth the facts supporting good cause. If the parties fail to appear at the hearing and the court has not excused their personal appearance, the petition will be denied without prejudice.