

TENTATIVE RULINGS for CIVIL LAW and MOTION
June 27, 2014

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 Two: (530) 406-6843

Telephone number for the clerk in Department Fourteen: (530) 406-6888

TENTATIVE RULING

Case: **Fields v. City of Davis**
Case No. CV CV 14-32

Hearing Date: **June 27, 2014** **Department Two** **9:00 a.m.**

Plaintiff Randy Field's opposition brief was filed only eight court days before the hearing. The Court considered all of the papers filed. However, counsel are reminded that they must comply with the filing deadlines set forth in Code of Civil Procedure section 1005(b). The Court will not consider late-filed papers in the future.

Defendant City of Davis's request for judicial notice is **GRANTED**. (Evid. Code, § 452, subd. (h).)

Defendant's demurrer to the first cause of action for a dangerous condition of public property in plaintiff's first amended complaint is **SUSTAINED WITH LEAVE TO AMEND**. (Code Civ. Proc., § 430.10, subd. (e).) Plaintiff fails to state facts sufficient to establish that the dangerous condition existed for such a period of time, and was of such an obvious nature, that defendant, in the exercise of due care, should have discovered the condition and its dangerous character. (Gov. Code, § 835.2, subd. (b).)

Defendant's demurrer to the second cause of action for a vicarious liability for the wrongful acts or omissions by defendant's employees is **SUSTAINED WITH LEAVE TO AMEND**. (Code Civ. Proc., § 430.10, subd. (e).) Plaintiff fails to state facts sufficient to support a finding that he filed a governmental tort claim to support this cause of action. Plaintiff fails to specifically identify the public employee, or employees, that plaintiff alleges acted negligently. (Gov. Code, § 910, subd. (e); *Munoz v. City of Union City* (2004) 120 Cal.App.4th 1077, 1113, disapproved on another ground in *Hayes v. Cnty. of San Diego* (2013) 57 Cal. 4th 622; *Zelig v. County of Los Angeles* (2002) 27 Cal.4th 1112, 1131.)

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

TENTATIVE RULING

Case: **Monteleone v. Le**
Case No. CV CV 12-1561
Hearing Date: June 27, 2014 Department Two 9:00 a.m.

Plaintiffs Zeferino Monteleone and Frances Monteleone’s request for judicial notice is **GRANTED**. (Evid. Code, § 452, subd. (d).)

Plaintiffs’ motion to enforce the settlement is **GRANTED**. (Code Civ. Proc., § 664.6.)

Plaintiffs’ request for attorneys’ fees is **DENIED WITHOUT PREJUDICE**. Fees shall be sought in accordance with California Rule of Court 3.1702.

Plaintiffs proffered all of their moving papers “under seal” upon filing. As plaintiffs have not complied with California Rule of Court 2.551 to support their request, these documents will not be sealed.

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

TENTATIVE RULING

Case: **Sanchez v. Adams Grain Co.**
Case No. CV PO 14-446
Hearing Date: June 27, 2014 Department Two 9:00 a.m.

Plaintiff Hector Sanchez’s request for judicial notice is **GRANTED**. (Evid. Code, § 452, subds. (a), (c), & (d).)

Defendants Adams Grain Co. and Adams Group, Inc.’s motion to strike is **GRANTED WITH LEAVE TO AMEND**. (Code Civ. Proc., § 436; Civ. Code, § 3294, subd. (c)(1)-(3).) Plaintiff’s allegations that defendants violated various regulations with respect to his employment and accident do not, without more, support plaintiff’s allegations of oppression, fraud, or malice.

The notice of motion does not provide notice of this Court’s tentative ruling system as required by Local Rule 11.4(b). Counsel for moving party is ordered to notify the opposing party or parties immediately of the tentative ruling system and to be available at the hearing, in person or by telephone, in the event the opposing party or parties appear without following the procedures set forth in Local Rule 11.4(a).

TENTATIVE RULING

Case: **Yamoah v. The Regents of the University of California**
Case No. CV CV 14-913

Hearing Date: **June 27, 2014** **Department Fourteen** **1:30 p.m.**

Plaintiff Ebenezer N. Yamoah’s Supplemental Declaration was untimely filed with the Court on June 16, 2014. The Court considered all of the papers filed. However, counsel is reminded to comply with all Court orders.

Plaintiff’s motion for preliminary injunction is **DENIED**. Plaintiff fails to establish that he will suffer irreparable harm. (*Smith v. Adventist Health System/West* (2010) 182 Cal.App.4th 729, 749; *O’Connell v. Superior Court* (2006) 141 Cal. App. 4th 1452, 1481; *Cohen v. Bd. of Supervisors* (1983) 40 Cal.3d 277, 286; *IT Corp. v. County of Imperial* (1983) 35 Cal.3d 63, 69.)

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