

TENTATIVE RULINGS for CIVIL LAW and MOTION
July 29, 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

TENTATIVE RULING

Case: Martinez v. City of Davis
Case No. CV PO 14-721

Hearing Date: July 29, 2014 Department Two 9:00 a.m.

Plaintiff James O. Martinez failed to serve a complete copy of his complaint on defendant City of Davis as ordered by the Court on July 1, 2014. (Decl. of Benjamin D. Oram in support of amended demurrer, ¶¶ 6-8, Exh. 2.) Plaintiff is directed to personally serve a complete copy of his summons and complaint on defendant, and to file proof with the Court that proper service has been effected. (Code Civ. Proc., §§ 415.10; 417.10, 583.210.) Plaintiff's proof of service shall comply with the requirements of Code of Civil Procedure section 417.10.

Defendant may file a demurrer to plaintiff's complaint once proper service is effected. (Code Civ. Proc., § 430.40.)

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: Ortiz v. McDonald
Case No. CV G 14-437

Hearing Date: July 29, 2014 Department Two 9:00 a.m.

Defendants Tom McDonald, West Sacramento Police Department, and Jack Hatton's demurrer to the first cause of action for deceit, second cause of action for fraudulent concealment, and third cause of action for negligent misrepresentation in plaintiff Julius Ortiz's complaint is **SUSTAINED WITH LEAVE TO AMEND**. (Code Civ. Proc., § 430.10, subd. (e).) Plaintiff sues defendants for their failure to include certain facts within a collision report. However, plaintiff fails to allege reliance on the alleged misstated or concealed facts and the damages he suffered as a result thereof. (*Intrieri v. Superior Court* (2004) 117 Cal.App.4th 72, 85-86.)

Additionally, plaintiff fails to allege facts excepting defendants from immunity for their actions. (Gov. Code, §§ 815.2, 821.6, 822.2; *Strong v. State of Calif.* (2011) 201 Cal.App.4th 1439.)

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.