

TENTATIVE RULINGS for CIVIL LAW and MOTION September 4, 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 Fifteen: (530) 406-6942

TENTATIVE RULING

Case: Cach v. Cheng
Case No. CV G 14-631

Hearing Date: September 4, 2014 Department Two 9:00 a.m.

Defendant Nancy Cheng's demurrer is **OVERRULED**. Defendant has not filed a memorandum in support of the demurrer. (Cal. Rules of Court, rule 3.1113.)

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: MHS Corp. v. All American Rentals, Inc.
Case No. CV CV 13-800

Hearing Date: September 4, 2014 Department Two 9:00 a.m.

Defendant and cross-complainant All American Rentals, Inc.'s motion to continue the settlement conference and trial is **DENIED**. (Cal. Rules of Court, rule 3.1332.) Defendant fails to provide sufficient facts regarding the need to conduct additional discovery regarding the cross-complaint.

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: PHL Associates, Inc. v. Wallis
Case No. CV CV 14-1023

Hearing Date: September 4, 2014 Department Fifteen 10:00 a.m.

Plaintiffs Jeffrey T. Wichmann and Mary B. Holmes's motion to coordinate the interpleader action with the underlying action and to assign both cases to the same judge is **DROPPED FROM CALENDAR** as **MOOT**. The current case and *Wallis v. PHL Associates, Inc.*, Yolo Superior Case no. CV CV 06-72352, have both been assigned to Department Fifteen.

Plaintiff's motion to amend their complaint in interpleader is **DROPPED FROM CALENDAR** as **MOOT**. On September 2, 2014, the Court entered the stipulation and proposed order submitted by the parties.

Based on the plaintiff's reply filed on August 5, 2014, the Court declines to rule on plaintiff's motion to release funds held in an interpleader account. Pursuant to plaintiff's assertion that the parties have agreed to a request for a continuance, the parties are **DIRECTED TO APPEAR** for purposes of setting a continued hearing date and case management conference. **The parties may appear by telephone.**

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: In re matter of the Ethel Jean Spain 1998 Revocable Trust
Case No. CV P2 13-113
Hearing Date: September 4, 2014 Department Two 9:00 a.m.

Jennifer Pruski's motion to be relieved as counsel for respondent Ernest Gaddini is **DENIED**. (Code Civ. Proc., § 284; Cal. Rules of Court, rule 3.1362.) Counsel does not provide a sufficiently specific explanation of the reason for withdrawal.

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: Wallis v. PHL Associates, Inc.
Case No. CV CV 06-72352
Hearing Date: September 4, 2014 Department Fifteen 10:00 a.m.

Defendants Jeffrey Wichmann and Mary Holmes's request for judicial notice is **GRANTED IN PART** as to Exhibit 1. (Evid. Code, § 452, subd. (d). The Court declines to take judicial notice of Exhibits 2 through 6, as defendants fail to provide sufficient information to support these requests. (Evid. Code, § 453, subd. (b).) Exhibit 2 does not include a title page or any identifying information, and Exhibits 3 through 6 are not copies of court-filed documents.

Defendants' motion for judgment on the pleadings to plaintiff Dale M. Wallis's fifth amended complaint is **DENIED**. Plaintiff states facts sufficient to state a cause of action against defendants. (Code Civ. Proc., § 438; Fifth Amended Complaint, ¶¶ 3, 4, 7-28, and 53-58.) The Court did not grant defendants' motion for nonsuit, in its entirety, to plaintiff's fifth cause of action for constructive trust and accounting.

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.