

TENTATIVE RULINGS for CIVIL LAW and MOTION September 16, 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: Dominguez v. Bank of America Home Loans
Case No. CV CV 10-659**

Hearing Date: September 16, 2014 Department Two 9:00 a.m.

Defendant Bank of America, N.A.'s unopposed motion to compel responses to the supplemental interrogatories is **GRANTED**. (Code Civ. Proc., § 2030.290.) Plaintiff Anselmo Dominguez shall serve verified answers to the supplemental interrogatories, without objections, by September 30, 2014.

Defendant's unopposed request for monetary sanctions against plaintiff is **GRANTED IN PART**, in the amount of \$510.00. (Code Civ. Proc., §§ 2023.010 et seq., 2030.290, subd. (c); Cal. Rules of Court, rule 3.1348; Decl. of Jason A. Savlov, ¶ 8.) Sanctions are not granted for time not yet incurred. Plaintiff shall pay the monetary sanctions to defendant by September 30, 2014.

Defendant's unopposed motion to compel responses to the demand for production of documents, set one, is **GRANTED**. (Code Civ. Proc., § 2031.300.) Plaintiff shall serve verified responses to the requests for production of documents, together with all responsive documents, without objections, by September 30, 2014.

Defendant's unopposed request for monetary sanctions against plaintiff is **GRANTED IN PART** in the amount of \$360.00. (Code Civ. Proc., §§ 2023.010 et seq., 2031.300; Cal. Rules of Court, rule 3.1348; Decl. of Jason A. Savlov, ¶ 8.) Sanctions are not granted for time not yet incurred. Plaintiff shall pay the monetary sanctions to defendant by September 30, 2014.

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: **Hetzel v. Hallenbeck**
Case No. CV CV 13-2017
Hearing Date: **September 16, 2014** **Department Two** **9:00 a.m.**

Defendants County of Yolo and Gary Hallenbeck's motion to compel the deposition of plaintiff Dawn Dee Hetzel is **DENIED**. Defendants fail to establish that a reasonable and good faith attempt at an informal resolution was made prior to filing the current motion. (Code Civ. Proc., § 2016.040; Decl. of John A. Lavra, ¶¶ 11-12, Exh. 2; Decl. of Ryan Birss, ¶¶ 5-6, 14-15.)

The parties' requests for monetary sanctions are **DENIED**.

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: **Martinez v. City of Davis**
Case No.: CV PO 14-721
Hearing Date: **September 16, 2014** **Department Two** **9:00 a.m.**

Plaintiff James Martinez's motion to appoint counsel is **DENIED**. Plaintiff provides no legal authority to support the request.

Plaintiff's motion to compel is **DENIED**. Defendant City of Davis's request for monetary sanctions against plaintiff is **GRANTED** in the amount of \$800.00. (Code Civ. Proc., § 1987.2, subd. (a).) The Court awards sanctions because the motion to compel is not supported by any admissible evidence, a subpoena duces tecum is not the proper procedural vehicle to obtain discovery from a party, and plaintiff cites no legal authority to support the making of the instant motion against defendant. Execution of the collection of the \$800 sanctions is suspended. Plaintiff Martinez is cautioned that a finding of further abuse of the discovery process will result in the suspension being terminated and the sanctions then become immediately payable.

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: **Protech v. Gillette**
Case No.: CV CV 12-5274
Hearing Date: **September 16, 2014** **Department Two** **9:00 a.m.**

Defendants Daniel Burgett and John Coon's motion to require plaintiff Protech Services Inc. to file a bond to secure the amount of attorneys' fees and costs they incur to defend this action is **DENIED**. (Code Civ. Proc., § 1030.) Defendants fail to provide any evidence that they would

be entitled to recover attorneys' fees in this action if they prevail, and they have not, by stating merely that they dispute plaintiff's allegations, demonstrated that there is a reasonable possibility that they will obtain judgment in the action. (Code Civ. Proc., § 1030, subd. (b); Burgett Decl., ¶ 8; Coon Decl., ¶ 7.)

Defendant James Gillette's motion to sever and set the order of trial such that his affirmative defense of the release by settlement is tried first is **DENIED**. (Code Civ. Proc., §§ 597, 598.) Defendant does not demonstrate that that "the convenience of witnesses, the ends of justice or the economy and efficiency of handling the litigation would be promoted thereby." (Code Civ. Proc., § 598.) The estimated length of trial is three weeks. Defendant does not show that, given the nature of the claims that remain asserted against the other defendants, two separate trials will result in a more expeditious trial of this matter.

Plaintiff and cross-defendant Kristine L. Arevalo's motion to continue trial is **GRANTED**. Good cause has been shown for the continuance based on the recent transfer and consolidation of the instant case with *Protech Services, Inc. v. Gillette*. (Cal. Rules of Court, rule 3.1332(c)(6) and (c)(7).) If plaintiff wishes to re-open discovery, she shall make an appropriate motion.

The trial date of October 20, 2014 is **VACATED**, and the parties are directed to appear at a case management conference on September 29, 2014, in Department 2 at 9:00 a.m.

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: **Short-Lyster v. Woodland Community College**
Case No. CV PO 14-304
Hearing Date: September 16, 2014 Department Two 9:00 a.m.

Defendants Yuba Community College District and Woodland Community College's motion for a protective order is **DENIED**. (Code Civ. Proc., § 2025.420.) Defendants fail to show good cause to support the issuance of a protective order requiring plaintiff's counsel's deposition to be taken prior to the depositions of defendants' witnesses.

Defendants' request for sanctions is **DENIED**.

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: **Singh v. Peterson**
Case No.: CV UD 14-1244
Hearing Date: September 16, 2014 Department Two 9:00 a.m.

Defendants Ian Peterson and Lisa Vitito's unopposed demurrer to the complaint is **SUSTAINED WITHOUT LEAVE TO AMEND**. (Code Civ. Proc., § 430.10, subd. (e).) The three-day notice

on which plaintiffs' complaint is based, in demanding rent older than one year, cannot support a complaint in unlawful detainer. (Code Civ. Proc., § 1161, subd. (2); *Budaeff v. Huber* (1961) 194 Cal.App.2d 12, 18.)

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.