

**TENTATIVE RULINGS for CIVIL LAW and MOTION
September 19, 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: Farmers' Rice Cooperative v. County of Yolo
Case No. CV PT 14-222
Hearing Date: September 19, 2014 Department Two 9:00 a.m.

Respondent County of Yolo's motion for judgment on the pleadings is **DROPPED FROM CALENDAR** based on the parties' stipulation to allow petitioner to file a first amended petition.

TENTATIVE RULING

Case: Hansen v. The Forecast Group, L.P.
Case No. CV CV 11-662
Hearing Date: September 19, 2014 Department Two 9:00 a.m.

Defendants The Forecast Group, L.P., Forecast Homes, Inc., K. Hovnanian Forecast Homes, Inc., and K. Hovnanian Communities, Inc.'s ("Forecast") request for judicial notice is **GRANTED IN PART** as to Exhibits A, B, C, and E. (Evid. Code, § 452, subd. (d).) The Court declines to take judicial notice of Exhibit D, as it is not a copy of a court-filed document.

Forecast's motion to intervene on behalf of defendant Garnas & Rabe Construction dba J.B. Construction is **GRANTED**. (Code Civ. Proc., § 387, subs. (a), (b); *Marc Bellaire, Inc. v. Fleischman* (1960) 185 Cal.App.2d 591, 595; *Reliance Ins. Co. v. Superior Court* (2000) 84 Cal.App.4th 383, 388; Forecast's Request for Judicial Notice, Exh. E.) Forecast shall file its complaint in intervention by September 26, 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.

Defendant Pacific Post Tension, Inc.'s ("Pacific") request for judicial notice in support of its motion is **GRANTED IN PART** as to Exhibits A, B, C, D, E, F, and H. (Evid. Code, § 452, subd. (d).) The Court declines to take judicial notice of Exhibit G, as it is not a copy of a court-filed document.

Pacific's request for judicial notice in support of its reply in support of its motion is **GRANTED IN PART** as to Exhibit A. (Evid. Code, § 452, subd. (d).) The Court declines to take judicial notice of Exhibit B, as it is not a copy of a court-filed document.

Plaintiffs Kevin R. Hansen, Elizabeth Hansen, Cindy Mai, Daniel Pena, Steve Casci, Kimberly Casci, Yi Fang, John Lindley, Erika Lindley, Gary Bucchianeri, and Cindy Bucchianeri's request for judicial notice is **GRANTED**. (Evid. Code, § 452, subd. (d).)

Pacific's motion to dismiss is **GRANTED**. (Code Civ. Proc., § 583.210.) Plaintiffs failed to serve Pacific within three years from the date the action was commenced against Pacific. (Pacific's Request for Judicial Notice in Support of Motion, Exhs. A, H; Decl. of Benjamin D. Koegel in Support of Motion, ¶ 6.) Pacific's discovery, which was propounded against plaintiffs in Pacific's capacity as a cross-defendant, does not constitute a general appearance. (*Botsford v. Pascoe* (1979) 94 Cal.App.3d 62, 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.

TENTATIVE RULING

Case: **Jull v. Fourth and Hope**
Case No. CV CV 13-1860
Hearing Date: **September 19, 2014** **Department Two** **9:00 a.m.**

Defendant Fourth and Hope's motion to strike plaintiff Leona Jull's second amended complaint is **GRANTED**. The Court sustained, with leave to amend, defendant's demurrer to the first, second, and third causes of action in plaintiff's first amended complaint on June 3, 2014. The time for plaintiff to amend her complaint, as a matter of course, expired on June 13, 2014. (Cal. Rules of Court, rule 3.1320(g).) On this basis, plaintiff's second amended complaint, filed on July 9, 2014, is **STRICKEN**. After expiration of the time in which a pleading can be amended as a matter of course, the pleading can only be amended by obtaining the permission of the court. (Code Civ. Proc., § 1010; Cal. Rules of Court, rule 3.1320(g), (i); *Leader v. Health Indus. of Am., Inc.* (2001) 89 Cal.App.4th 603, 613; *Gitmed v. General Motors Corp.* (1994) 26 Cal.App.4th 824, 827-828.)

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.