

**TENTATIVE RULINGS for CIVIL LAW and MOTION**  
**November 7, 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](http://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 Three: (530) 406-6816  
Telephone number for the clerk in Department Seven: (530) 406-6722

**TENTATIVE RULING**

**Case:** **Morris v. Davisville Apartments**  
**Case No. CV PO 13-852**  
**Hearing Date:** **November 7, 2014** **Department Three** **9:00 a.m.**

Plaintiff Cynthia Morris's objections to the declaration of Sean Shimada, Ph.D. are **OVERRULED**. Plaintiff's objections go to the weight rather than the admissibility of Dr. Shimada's observations. The Court will afford appropriate weight to his observations given the timing of his inspection.

Defendants Davisville Apartments and Broward Land Corporation's objections to the declaration of Laurence Neuman are **OVERRULED**. While there are objectionable portions of the Mr. Neuman's declaration at p. 3:7-10, the objection is also made to unobjectionable portions. Accordingly, the entirety of the objection is **OVERRULED**.

Defendants' motion for summary judgment is **DENIED**. (Code Civ. Proc., § 437c, subd. (p)(2).) Defendants fail to provide sufficient evidence that the conditions at the scene of the accident have not changed between the accident and the time of Dr. Shimada's site inspection. (See also Plaintiff's Responses to UMF 8, 11-12, & 15-17.)

If no hearing is requested, respondents are directed to prepare a formal order consistent with this ruling and in accordance with Code of Civil Procedure section 437c(g) and California Rules of Court, rule 3.1312.

**TENTATIVE RULING**

**Case:** **Page v. Regents of the University of California**  
**Case No. CV PM 08-228**  
**Hearing Date:** **November 7, 2014** **Department Seven** **3:30 a.m.**

The Court declines to consider the declaration of Derek J. Haynes, along with the attached exhibits, submitted in opposition to the motion for judgment on the pleadings. The grounds for a

motion for judgment on the pleadings must appear on the face of the challenged pleading, or from any matter of which the court is required to take judicial notice. (Code Civ. Proc., § 438, subd. (e); *Blank v. Kirwan* (1985) 39 Cal.3d 311, 318.)

Cross-defendant Foundry Networks, Inc.'s ("Foundry") request that the Court take judicial notice of Exhibits 1-3, 5, 7-9, and 11-14 is **GRANTED**. (Evid. Code, § 452, subd. (d).) Foundry's request that the Court take judicial notice of Exhibits 4, 6, and 10 is **DENIED**, as they are not copies of court filed documents.

Foundry's motion for judgment on the pleadings directed to the Regents of the University of California's ("University") cross-complaint is **DENIED**. (Code Civ. Proc., § 438, subd. (c)(1)(B).) University alleges facts sufficient to state a cause of action for express contractual indemnity and for breach of contract. Based on the pleadings and matters which are judicially noticeable, the Court cannot determine as a matter of law that Foundry did not owe University a duty to defend. (Foundry's Request for Judicial Notice, Exhs. 1, 8; *UDC-Universal Dev. v. CH2M Hill* (2010) 181 Cal.App.4th 10, 21.)

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.