

TENTATIVE RULINGS for CIVIL LAW and MOTION
November 14, 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 Seven: (530) 406-6722

TENTATIVE RULING

Case: Done Again LLC v. Sierra Nevada Reconveyance, Inc.
Case No. CV CV 12-2574

Hearing Date: November 14, 2014 Department Seven 2:30 p.m.

Defendant Windemere Capital, LLC and Mesa Asset Management, LLC's unopposed motion to set aside default is **GRANTED**. (Code Civ. Proc., § 473, subd. (b).)

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: Devore v. California Highway Patrol
Case No. CV PO 08-3424

Hearing Date: November 14, 2014 Department Two 9:00 a.m.

Defendants California Highway Patrol and Justin Ross Sherwood's request to take notice of Exhibits 1 and 2 is **GRANTED**. (Evid. Code, § 452, subd. (d).) The request to take notice of Exhibit 3 is **DENIED**. The document marked as Exhibit 3 is not a copy of court filed document and it is not attached to plaintiffs Rachelle Devore and Steffani Hix's complaint as asserted. (Defendants' Request for Judicial Notice, p. 2:18-20.)

Plaintiffs' motion for leave to file a second amended complaint is **GRANTED**. (Code Civ. Proc., § 473, subd. (a).) The grounds asserted by defendants in opposition are premature and should be raised by demurrer and/or a motion to strike. (*Kittredge Sports Co. v. Superior Court* (1989) 213 Cal.App.3d 1045, 1048.) To the extent defendants seek to continue the trial date based on plaintiffs' current motion, defendants must do so by a noticed motion. (Cal. Rules of Court, rule 3.1332.)

Plaintiffs shall file and serve their second amended complaint by November 21, 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: **Unifund CCR, LLC v. Haverlock**
 Case No. CV G 14-258

Hearing Date: **November 14, 2014** **Department Two** **9:00 a.m.**

Plaintiff Unifund CCR, LLC's request for judicial notice is **GRANTED**. (Evid. Code, § 452, subd. (d); *Able v. Van Der Zee* (1967) 256 Cal. App. 2d 728, 734.)

Plaintiff's unopposed motion for judgment on the pleadings against defendant Michelle D. Haverlock is **DENIED**. (Code Civ. Proc., § 438, subd. (c)(1)(A).) Defendant's ninth affirmative defense states facts sufficient to constitute a defense to plaintiff's third cause of action for an open book account. (Plaintiff's Request for Judicial Notice ("RJN"), nos. 1-4.) Based on the pleadings and the matters the Court is required to take judicial notice of, there is no evidence that defendant did not make any payments to plaintiff *after* July 22, 2011. (Plaintiff's RJN, no. 3.) Therefore, for purposes of a motion for judgment on the pleadings, plaintiff cannot prove that defendant did not make any payments to plaintiff after July 22, 2011, and defendant has properly raised a defense to attack any entries in the open book account that were made after that date.

The notice of motion does not provide notice of the 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).