

**TENTATIVE RULINGS for CIVIL LAW and MOTION
December 2, 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 Fourteen: (530) 406-6888

TENTATIVE RULING

Case: Atlantic Credit & Finance, Inc. v. Garcia

Case No. CV G 08-1117

Hearing Date: December 2, 2014 Department Two 9:00 a.m.

Plaintiff Atlantic Credit & Finance, Inc.'s unopposed motion to vacate the default judgment is **GRANTED**. (Code Civ. Proc., § 473, subd. (d); *Dill v. Berquist Constr. Co.* (1994) 24 Cal.App.4th 1426, 1441.)

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: Gunter v. Gaddini

Case No. CV CV 12-1948

Hearing Date: December 2, 2014 Department Fourteen 9:00 a.m.

The Court rules upon defendant Ernest W. Gaddini's motion to tax costs as follows:

Defendant's motion to tax costs is **GRANTED IN PART**:

Defendant's motion to tax costs for filing and motion fees is **DENIED**. (Code Civ. Proc., § 1033.5, subd. (a)(1).)

Defendant's motion to tax costs for deposition costs in the amount of \$2,690.60 is **GRANTED**. (Code Civ. Proc., § 1033.5, subd. (a)(3).)

Defendant's motion to tax costs for attachment expenses in the amount of \$659.70 is **GRANTED**. (Decl. of Etan Rosen in Opposition, ¶ 2.)

Defendant's motion to tax costs for witness fees in the amount of \$4,750.00 is **GRANTED**. (Code Civ. Proc., § 1033.5, subs. (a)(7), (b)(1).)

Defendant's motion to tax costs for models, blowups, and photocopies of exhibits in the amount of \$150.00 is **GRANTED**. Plaintiff fails to establish that these costs were for copies of exhibits. (Code Civ. Proc., § 1033.5, subd. (a)(12); Decl. of Rosen in Opposition, ¶ 2.)

Defendant's motion to tax costs for "other" costs in the amount of \$388.18 is **GRANTED**. (Code Civ. Proc., § 1033.5, subd. (b)(3); Decl. of Rosen in Opposition, ¶ 2.)

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.

The Court rules upon plaintiff John S. Gunter's motion for attorney's fees as follows:

Plaintiff's motion for attorney's fees is **GRANTED IN PART**, in the amount of \$53,905.55. (Civ. Code, § 1717.) Plaintiff is only entitled to fees related to the breach of contract cause of action. (Decl. of Jennifer L. Pruski, ¶¶ 8-12.)

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: **Midland Funding LLC v. Wong**
Case No. CV G 14-585

Hearing Date: **December 2, 2014** **Department Two** **9:00 a.m.**

Plaintiff Midland Funding LLC's motion to deem requests for admission admitted is **GRANTED**. (Code Civ. Proc., § 2033.280.) While defendant proffers a tardy response with her opposition, the responses do not comply with Code of Civil Procedure section 2033.220. Unsworn responses are equivalent to "no response at all" and therefore not in "substantial compliance" with § 2033.220. (*Allen-Pacific, Ltd. v. Sup. Ct. (Chan)* (1997) 57 Cal.App.4th 1546, 1551.)

Monetary sanctions are **DENIED**. Proper notice thereof was not provided in the notice of motion. (Code Civ. Proc., § 2023.040.)

The notice of motion erroneously states that the motion will be heard in Room 103. It will be heard in Department 2.

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: Matter of Paw'u
Case No. CV P2 13-224
Hearing Date: December 2, 2014 Department Two 9:00 a.m.

The hearing on the expedited minor's compromise is **DROPPED FROM CALENDAR**. An amended petition was filed on November 21, 2014.

TENTATIVE RULING

Case: Salas v. Ramirez
Case No. CV CV 14-456
Hearing Date: December 2, 2014 Department Two 9:00 a.m.

The Court does not consider defendant Martha Ayala's purported demurrer to the first cause of action. Notice of her demurrer thereto was not given in the notice of demurrer.

Cross-defendant Rolando Pimentel's demurrer to cross-complainants Joaquin Ramirez and Antonio Ramirez's first cause of action for intentional infliction of emotional distress is **OVERRULED**. (Code Civ. Proc., § 430.10, subd. (e).) Cross-complainants sufficiently plead that Pimentel and/or his co-conspirators engaged in conduct that was sufficiently extreme and outrageous. Cross-defendants fail to demonstrate that, based on the nature of the conduct alleged, that is barred by the exclusivity provisions of the Worker's Compensation Act.

Cross-defendant Rolando Pimentel's demurrer to cross-complainants' second cause of action for stalking is **SUSTAINED WITHOUT LEAVE TO AMEND**. (Code Civ. Proc., § 430.10, subd. (e).) Cross-complainants fail to plead sufficient facts to support that cross-complainants "demanded that the defendant cease and abate his or her pattern of conduct and the defendant persisted in his or her pattern of conduct." (Civ. Code, § 1708.7, subd. (a)(3)(A).) Having already given cross-complainants one opportunity to cure this defect, the Court declines to afford leave to amend.

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).