TENTATIVE RULINGS for CIVIL LAW and MOTION
December 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 Seven: (530) 406-6722

TENTATIVE RULING

Case: **Arias v. City of Woodland**
Case No. CV CV 10-1163
Hearing Date: December 19, 2014 Department Seven 9:00 a.m.

Defendants City of Woodland, Frank Ritter and Jack Schubert's motion for summary adjudication is **DENIED**. (Code of Civ. Proc., § 437c, subds. (b)(1), (f).) Defendants' separate statement of undisputed material facts fails to separately identify each cause of action or claim that defendants seek to have adjudicated as required. (Cal. Rules of Court, rule 3.1350(b) & (d).)

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

TENTATIVE RULING

Case: **Tapia v. Centex Homes**
Case No. CV CV 11-1082
Hearing Date: December 19, 2014 Department Seven 9:00 a.m.

Cross-defendant Ironshore Specialty Insurance Company's demurrer to cross-complainants Travelers Indemnity Company of Connecticut and Travelers Property Casualty Company of America's first amended cross-complaint ("FACC"):

Cross-defendant's demurrer to the entirety of the FACC is **SUSTAINED WITH LEAVE TO AMEND**. (Code Civ. Proc., § 430.10, subd. (e).) Each of the causes of action asserted against cross-defendant in the FACC are premised on an alleged agreement, i.e., an insurance policy. However, the policy is not attached to the complaint nor are its terms pled verbatim. (H*arris v. Rudin, Richman & Appel* (1999) 74 Cal.App.4th 299, 307.) Having sustained the demurrer on this ground, the Court need not reach the other grounds asserted for the demurrer.

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).

Cross-complainants and cross-defendants Travelers Indemnity Company of Connecticut and Travelers Property Casualty Company of America's demurrer to Centex Homes's second amended cross-complaint ("SACC"):

Cross-defendants' request for judicial notice is **DENIED**. (Evid. Code, § 452, subd. (h).) Cross-defendants do not cite a valid legal basis for taking judicial notice of the subject documents. Judicial notice of the policy is not appropriate. (*Pastoria v. Nationwide Ins*. (2003) 112 Cal.App.4th 1490, fn. 4.)

As the entirety of cross-defendants' demurrer is premised on the documents for which they request judicial notice, the demurrer to the SACC is **OVERRULED**. (Code Civ. Proc., § 430.10, subd. (e).)

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:	**Briseno v. Centex Homes**		
	Case No. CV CV 11-623		
Hearing Date:	**December 19, 2014**	**Department Seven**	**9:00 a.m.**

Cross-complainants and cross-defendants Travelers Indemnity Company of Connecticut and Travelers Property Casualty Company of America's demurrer to Centex Homes's request for judicial notice is **DENIED**. (Evid. Code, § 452, subd. (h).) Cross-defendants do not cite a valid legal basis for taking judicial notice of the subject documents. Judicial notice of the policy is not appropriate. (*Pastoria v. Nationwide Ins*. (2003) 112 Cal.App.4th 1490, fn. 4.)

As the entirety of cross-defendants' demurrer is premised on the documents for which they request judicial notice, the demurrer to the second amended cross-complaint is **OVERRULED**. (Code Civ. Proc., § 430.10, subd. (e).)

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).