

## **TENTATIVE RULINGS for CIVIL LAW and MOTION March 6, 2015**

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 Two: (530) 406-6843

### **TENTATIVE RULING**

**Case:** **Kreger Bros. Builders, Inc. v. Somkopulos**  
**Case No. CV CV 12-1991**  
**Hearing Date:** **March 6, 2015** **Department Two** **9:00 a.m.**

Martin M. Eisenberg's unopposed motion to be relieved as counsel for Krueger Bros. Builders, Inc. is **GRANTED**. (Cal. Rules of Court, rule 3.1362.) This order is not effective until Mr. Eisenberg files a proof of service with the court showing service of a copy of the signed order on his client. (Cal. Rules of Court, rule 3.1362(e).)

### **TENTATIVE RULING**

**Case:** **Navarro v. Pacific Basin Milling, LLC**  
**Case No. CV PO 10-1331**  
**Hearing Date:** **March 6, 2015** **Department Two** **9:00 a.m.**

Defendants Frontier Ag Co., Inc. and Matt Labriola's motion to continue trial:

Defendants' motion to continue the trial is **GRANTED**. (Cal. Rules of Court, rule 3.1332.) The trial date of April 6, 2015 is **VACATED**. The parties are directed to appear at a case management conference on April 6, 2015, in Department 2 at 9:00 a.m. to reset the trial date.

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).

Defendants Pacific Basin Milling, LLC, Joseph Heidrick Jr. and Suzanne P. Heidrick, as trustees of the Joseph A. Heidrick Jr. and Suzanne P. Heidrick Family Revocable Trust dated May 4, 2001, and Jeffrey B. Barnes and Kay V. Barnes, trustees of the Barnes 2000 Family Trust established on October 9, 2000's motion for summary judgment, or in the alternative, summary adjudication:

Defendants' request for judicial notice is **GRANTED**. (Evid. Code, § 452, subd. (d).)

Plaintiff Gilberto Navarro's request for judicial notice is **GRANTED**. (Evid. Code, § 452, subd. (c).)

Plaintiff's evidentiary objection nos. 1, 3, 5-10, 18, 20, 21, 24, 27-28, 31-33, and 39 are **SUSTAINED**. Plaintiff's evidentiary objection nos. 2, 4, 11-17, 19, 22-23, 25-26, 29-30, 34-38, and 40-42 are **OVERRULED**. Objections are sustained where objecting party failed to provide a quote of the matter objected to (Cal. Rules of Court, rule 3.1354(b)(3)), and where any part of the matter objected to was not sustainable for the entirety of the matter quoted on the grounds stated.

Defendants' evidentiary objection nos. 1 and 2 are **OVERRULED**.

Defendants Pacific Basin Milling, LLC, Joseph Heidrick Jr. and Suzanne P. Heidrick, as trustees of the Joseph A. Heidrick Jr. and Suzanne P. Heidrick Family Revocable Trust dated May 4, 2001, and Jeffrey B. Barnes and Kay V. Barnes, trustees of the Barnes 2000 Family Trust established on October 9, 2000's motion for summary adjudication of the sixth, seventh, eighth, and ninth causes of action is **DENIED**. These defendants are not named in these causes of action so have no standing to challenge them.

Defendants Pacific Basin Milling, LLC, Joseph Heidrick Jr. and Suzanne P. Heidrick, as trustees of the Joseph A. Heidrick Jr. and Suzanne P. Heidrick Family Revocable Trust dated May 4, 2001's motion for summary adjudication of the tenth and eleventh causes of action is **DENIED**. These defendants are not named in these causes of action so have no standing to challenge them.

Defendants Pacific Basin Milling, LLC, Joseph Heidrick Jr. and Suzanne P. Heidrick, as trustees of the Joseph A. Heidrick Jr. and Suzanne P. Heidrick Family Revocable Trust dated May 4, 2001's motion for summary adjudication of the first through fifth causes of action is **DENIED**. Defendants have not met their burden of establishing that one or more elements of these causes of action cannot be established. (Code Civ. Proc., § 437c, subd. (p)(2); Defendants' Undisputed Material Facts ("UMF") 128-131, Plaintiff's Responses to UMF ("RUMF") 129, 130, and Plaintiff's Additional Material Facts ("AMF") 17, 19, 26-31.)

The remaining defendants' motion for summary adjudication of the tenth and eleventh causes of action is **GRANTED**. Defendants have shown that there is no triable issue of material fact with respect to these causes of action. (Code Civ. Proc., § 437c, subd. (p)(2); UMF 202-205, 206-210.)

Having denied the motion for summary adjudication as to the first and fifth causes of action, summary judgment is **DENIED**.

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 Rules of Court, rule 3.1312.

Defendants Frontier Ag Co. and Matt Labriola's motion for summary judgment on the tenth cause of action:

Plaintiff's evidentiary objection nos. 1 and 2 to defendants' evidence are **SUSTAINED**.

Defendants' motion for summary judgment is **DENIED**. Defendants have not met their burden of establishing that one or more elements of this cause of action, which sounds in both contract and negligence, cannot be established. (Code Civ. Proc., § 437c, subd. (p)(2).)

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).