

# TENTATIVE RULINGS for CIVIL LAW and MOTION

## April 15, 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  
Telephone number for the clerk in Department Fifteen: (530) 406-6942

### TENTATIVE RULING

**Case:** Alizadeh v. Unionbancal  
Case No. CV CV 14-1604  
**Hearing Date:** April 15, 2015 Department Two 9:00 a.m.

Defendants Unionbancal Corporation and Union Bank, N.A.'s request for judicial notice is **DENIED**. (Evid. Code, § 452.) No legal basis is shown for judicial notice of an internet printout from Trulia of a property listing.

Defendants' demurrer to the first cause of action for declaratory relief is **SUSTAINED WITH LEAVE TO AMEND**. (Code Civ. Proc., § 430.10, subd. (e).) Plaintiff has not pled that he made a demand to defendants for the subject information. (Code Civ. Proc., § 1060; Civ. Code, § 2943.) The Court need not reach the uncertainty ground.

Defendants' demurrer to the second cause of action for an accounting is **SUSTAINED WITH LEAVE TO AMEND**. (Code Civ. Proc., § 430.10, subd. (e).) Plaintiff has not pled sufficient facts to support the existence of a fiduciary relationship between plaintiff and defendants. (*Nymark v. Heart Fed. Savings & Loan Assn.* (1991) 231 Cal.App.3d 1089, 1093.) The Court need not reach the uncertainty ground.

Defendants' demurrer to the third cause of action for breach of the implied covenant of good faith and fair dealing is **SUSTAINED WITH LEAVE TO AMEND**. (Code Civ. Proc., § 430.10, subd. (e).) Plaintiff has not pled that the relevant breaches relate to benefits provided in the parties' contract. (*Racine & Laramie, Ltd. v. Dept. of Parks & Recreation* (1992) 11 Cal.App.4<sup>th</sup> 1026, 1031-32.) The Court need not reach the uncertainty ground.

Defendants' demurrer to the fourth cause of action cause of action for unfair competition is **SUSTAINED WITH LEAVE TO AMEND**. (Code Civ. Proc., § 430.10, subd. (e).) Plaintiff has not pled sufficient facts to support his allegation that defendants engaged in unlawful, unfair, or fraudulent business practices. (Bus. & Prof. Code, § 17200.) The Court need not reach the uncertainty ground.

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:** **Briseno v. Centex Homes**  
**Case No. CV CV 11-623**  
**Hearing Date:** **April 15, 2015** **Department Two** **9:00 a.m.**

Defendant and cross-defendant Blazona Concrete Construction, Inc.'s unopposed motion for determination of good faith settlement is **GRANTED**. (Code Civ. Proc., § 877.6.)

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:** **Mistiuk v. Select Portfolio Servicing, Inc.**  
**Case No. CV CV 14-2049**  
**Hearing Date:** **April 15, 2015** **Department Fifteen** **9:00 a.m.**

Defendant the Wolf Firm's request for judicial notice is **GRANTED**. (Evid. Code, § 452, subd. (c).)

Defendant's demurrer to the first cause of action for violation of Civil Code section 2923.6(c) is **SUSTAINED WITH LEAVE TO AMEND**. (Code Civ. Proc., § 430.10, subd. (e).) Plaintiff fails to allege facts sufficient to support a finding that a complete application was submitted to Select Portfolio Servicing, Inc. prior to the recording of the Notice of Default on July 14, 2014. (Civ. Code, § 2923.6, subd. (c); Complaint, ¶¶ 51-52, 63-65, 69, 79, 84-85.)

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.