

TENTATIVE RULINGS for CIVIL LAW and MOTION
April 21, 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. 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: Clark v. EMQ FamiliesFirst
Case No. CV CV 14-1250
Hearing Date: April 21, 2015 Department Two 9:00 a.m.

Defendant EMQ FamiliesFirst, Inc.'s request for judicial notice is **GRANTED**. (Evid. Code, § 452, subd. (d).)

Defendant's demurrer to the first cause of action for negligence is **SUSTAINED WITH LEAVE TO AMEND**. (Code Civ. Proc., § 430.10, subd. (e).) Plaintiff Dino Clark fails to plead sufficient facts to support his allegation that defendant owed a duty to disclose the subject information about John Doe. In opposition to the demurrer to this claim, plaintiff cites allegations that are not contained in the first amended complaint filed with the Court. The Court need not reach the other grounds asserted for the demurrer to this cause of action.

Defendant's demurrer to the second cause of action for negligent hiring, training, supervision, and retention is **SUSTAINED WITH LEAVE TO AMEND**. (Code Civ. Proc., § 430.10, subd. (e).) Plaintiff fails to plead sufficient facts to support his allegation that defendant's employees were improperly supervised and trained, and how these failures resulted in plaintiff's injury. The Court need not reach the other grounds asserted for the demurrer to this cause of action.

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: Hart v. Select Portfolio Servicing, Inc.
Case No. CV CV 14-1991
Hearing Date: April 21, 2015 Department Two 9:00 a.m.

Defendant JP Morgan Chase Bank, N.A.'s demurrer to plaintiffs' first amended complaint is **CONTINUED** on the Court's own motion to May 15, 2015, at 9:00 a.m. in Department Two.

TENTATIVE RULING

Case: **Olsen v. Pacific Gas and Electric Co.**
Case No. CV CV 12-2110
Hearing Date: **April 21, 2015** **Department Two** **9:00 a.m.**

The Court does not consider the documents attached to plaintiff Latisha Olsen's notice of errata filed on March 4, 2015, as plaintiff was ordered to file her opposition by February 25, 2015. The documents attached to the notice of errata substantively supplement plaintiff's opposition papers.

The Court does not consider plaintiff's evidentiary objections filed on February 25, 2015, as the objections are not consecutively numbered. (Cal. Rules of Court, rule 3.1354(b).)

The Court does not consider plaintiff's separate statement of additional material facts in opposition to defendant's motion for summary judgment because it does not comply with the format set forth in California Rule of Court 3.1350(h), i.e. the disputed material facts set forth in the statement are not correlated with the issues and causes of action in defendant's statement to which they are supposed to relate. Even if it were to consider the statement, plaintiff does not identify any facts in her opposing brief from this statement that support her arguments against summary judgment.

Defendant PG&E's evidentiary objection nos. 1-28, 30-32, 35, 38-41, 43-44, 46-49, 51-55, 57, 59 and 62-66 are **OVERRULED**. The remaining objections are **SUSTAINED**. Objections are overruled where defendant fails to show that each part of an evidence excerpt is inadmissible for any of the stated reasons.

Defendant's motion for summary adjudication of the first cause of action for gender discrimination is **GRANTED**. (Code Civ. Proc., § 437c, subd. (p)(2).) Defendant has shown that plaintiff cannot establish a prima facie case of discrimination and plaintiff fails to create a triable issue of material fact as to whether she suffered an adverse employment action. (Undisputed Material Fact ("UMF") 1-30, 35.) Having granted summary adjudication on this basis, the Court need not reach the other issues on which defendant seeks adjudication of this cause of action.

Defendant's motion for summary adjudication of the second cause of action for sexual harassment is **GRANTED**. (Code Civ. Proc., § 437c, subd. (p)(2).) Defendant has shown that plaintiff cannot establish a prima facie case of harassment and plaintiff fails to create a triable issue of material fact as to whether the harassment to which she was subjected was severe and pervasive. (UMF 19-30, 35, 37.) Having granted summary adjudication on this basis, the Court need not reach the other issues on which defendant seeks adjudication of this cause of action.

Defendant's motion for summary adjudication of the third cause of action for disability discrimination is **GRANTED**. (Code Civ. Proc., § 437c, subd. (p)(2).) Defendant has shown that plaintiff cannot establish a prima facie case of discrimination and plaintiff fails to create a triable issue of material fact as to whether she suffered an adverse employment action. (UMF 1-3, 6-21, 29, 34, 35, 38-51.) Having granted summary adjudication on this basis, the Court need not reach the other issues on which defendant seeks adjudication of this cause of action.

Defendant's motion for summary adjudication of the fourth cause of action for failure to engage in the interactive process is **GRANTED**. (Code Civ. Proc., § 437c, subd. (p)(2).) Defendant has shown that plaintiff cannot establish a prima facie case of failure to engage in the interactive process and plaintiff has not identified a reasonable accommodation that defendant failed to provide to her.

(UMF 20, 34, 41, 42, 44, 47, 52, 53, 54.) Having granted summary adjudication on this basis, the Court need not reach the other issue on which defendant seeks adjudication of this cause of action.

Defendant's motion for summary adjudication of the fifth cause of action for failure to accommodate is **GRANTED**. (Code Civ. Proc., § 437c, subd. (p)(2).) Defendant has shown that plaintiff cannot establish a prima facie case of failure to accommodate and plaintiff has not identified a reasonable accommodation that defendant failed to provide to her. (UMF 20, 34, 41, 42, 44, 47, 52, 53, 54.) Having granted summary adjudication on this basis, the Court need not reach the other issues on which defendant seeks adjudication of this cause of action.

Defendant's motion for summary adjudication of the sixth cause of action for retaliation is **GRANTED**. (Code Civ. Proc., § 437c, subd. (p)(2).) Defendant has shown that plaintiff cannot establish a prima facie case of retaliation and plaintiff fails to create a triable issue of material fact as to whether she suffered an adverse employment action. (UMF 1-30, 34-60, 64.) Having granted summary adjudication on this basis, the Court need not reach the other issues on which defendant seeks adjudication of this cause of action.

Defendant's motion for summary adjudication of the seventh cause of action for failure to prevent discrimination, retaliation, and harassment is **GRANTED**. (Code Civ. Proc., § 437c, subd. (p)(2).) Defendant has shown that plaintiff cannot establish a prima facie case of failure to prevent discrimination, retaliation, and harassment and plaintiff fails to create a triable issue of material fact as to whether she suffered discrimination, retaliation, or harassment. (UMF 1-64.) Having granted summary adjudication on this basis, the Court need not reach the other issues on which defendant seeks adjudication of this cause of action.

Defendant's motion for summary adjudication of the seventh cause of action for retaliation in violation of Labor Code sections 1102.5 and 6310 is **GRANTED**. (Code Civ. Proc., § 437c, subd. (p)(2).) Defendant has shown that plaintiff cannot establish a prima facie case of retaliation plaintiff fails to create a triable issue of material fact as to whether she suffered an adverse employment action. (UMF 7-21, 31-34.) Having granted summary adjudication on this basis, the Court need not reach the other issues on which defendant seeks adjudication of this cause of action.

Defendant's motion for summary adjudication of the ninth cause of action for defamation is **DENIED** as moot, since plaintiff dismissed this cause of action on March 2, 2015.

Defendant's motion for summary adjudication of plaintiff's entitlement to punitive damages is **DENIED** as moot, since plaintiff dismissed this request for damages on March 2, 2015.

The motion for summary judgment is **GRANTED**.

TENTATIVE RULING

Case: **Ramos v. Cal Agri Products, LLC**
Case No. CV CV 12-1613

Hearing Date: **April 21, 2015** **Department Two** **9:00 a.m.**

Plaintiff Frank Ramos's unopposed motion to compel responses to post-judgment interrogatories and demands for inspection is **GRANTED**. (Code Civ. Proc., § 708.020, subd. (a).) Monetary

sanctions are awarded against defendant Cal Agri Products LLC, in the amount of \$443.50. (Code Civ. Proc., § 2030.290, subd. (c).)

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.