

## **TENTATIVE RULINGS for CIVIL LAW and MOTION June 25, 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 Fourteen: (530) 406-6888

### **TENTATIVE RULING**

**Case:** **Alizadeh v. Unionbancal Mortgage Corp.**  
**Case No. CV CV 14-1604**

**Hearing Date:** **June 25, 2015** **Department Two** **9:00 a.m.**

Defendants Unionbancal Mortgage Corporation and MUFG Union Bank, N.A.'s demurrer to the entirety of the third amended complaint on the ground that he lacks standing is **OVERRULED**. (Code Civ. Proc., § 430.10, subd. (e).) Defendants do not support their argument with any legal authority that holds that property ownership is an element of each cause of action asserted.

Defendants' demurrer to the first cause of action for declaratory relief is **OVERRULED**. (Code Civ. Proc., §§ 430.10, subds. (e), (f).) Plaintiff has sufficiently pled that he made a demand to defendants for the subject information, and that it was not provided. (Code Civ. Proc., § 1060; Civ. Code, § 2943.) The claim is not uncertain.

Defendants' demurrer to the second cause of action for an accounting is **SUSTAINED WITHOUT LEAVE TO AMEND**. (Code Civ. Proc., § 430.10, subd. (e).) Plaintiff has still failed to plead 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 **OVERRULED**. (Code Civ. Proc., § 430.10, subds. (e), (f).) Defendants' arguments, even if meritorious, do not dispose of the entirety of the cause of action. Defendants do not specify the respects in which this claim is uncertain.

Defendants' demurrer to the fourth cause of action cause of action for unfair competition is **OVERRULED**. (Code Civ. Proc., § 430.10, subd. (e).) A motion to strike is the proper procedural vehicle to challenge an improper damages claim. Otherwise, plaintiff has alleged sufficient facts to support the existence of an "unlawful" business practice. (Bus. & Prof. Code, § 17200.) Defendants do not specify the respects in which this claim is uncertain.

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: June 25, 2015 Department Fourteen 11:00 a.m.**

Plaintiff John S. Gunter's motion for sanctions pursuant to Code of Civil Procedure section 128.7 is **DENIED**. He has not complied with Code of Civil Procedure section 128.7(c)(1).

If no hearing is requested, this tentative ruling is effective immediately. No formal order pursuant to California Rules of Court, rule 3.1312 or further notice is required.