

TENTATIVE RULINGS for CIVIL LAW and MOTION
July 2, 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 Fourteen: (530) 406-6888

TENTATIVE RULING

Case: Copobianco v. Greenhagh
Case No. CV UD 14-411
Hearing Date: July 2, 2015 Department Fourteen 10:00 a.m.

Defendant Jonathan Barrett's motion to set aside default is **DROPPED FROM CALENDAR**. Defendant did not file any moving papers with the Court.

TENTATIVE RULING

Case: Sidhu v. Mason McDuffie Real Estate, Inc.
Case No. CV CV 12-1940
Hearing Date: July 2, 2015 Department Fourteen 10:00 a.m.

The Court rules upon defendants Mason McDuffie Real Estate and Michael Gaskill's motion for summary judgment, or in the alternative summary adjudication directed to plaintiffs' third amended and supplemented complaint, as follows:

Defendants' request for judicial notice, filed March 27, 2015, is **GRANTED** as to Exhibit 1. (Evid. Code, § 452, subd. (d).) Defendants' request that the Court take judicial notice of Exhibits 2 through 6 is **DENIED**. Exhibits 2 through 6 are not copies of Court filed records. Authenticating documents as responses to discovery does not establish that the exhibits are Court records. (Decl. of M. Henry Walker, ¶¶ 2-4.)

Defendants' request for judicial notice, filed May 8, 2015, is **GRANTED** as to Exhibit 1. (Evid. Code, § 452, subd. (d).) Although Exhibit 1 is not a copy of a court-filed record, the document is properly authenticated as filed with this Court on March 6, 2015. (Decl. of M. Henry Walker in Reply to Motion, ¶ 2.)

Defendants' evidentiary objection nos. 5-8, and 12-13 are **SUSTAINED**. (Evid. Code, §§ 403, 702.) Defendants' remaining evidentiary objections are **OVERRULED**.

The Court rules on defendants' motion for summary adjudication as follows:

- Summary adjudication based on issues 1, 3, 5, 7, 9, 11, and 12 is **DENIED**. (Code Civ. Proc., § 437c, subd. (f).) Triable issues of material facts exist. (Defendants' Statement of Undisputed Material Facts ("UMF") 15-16, 18, 24-25, 27, 32, and 34; Decl. of M. Henry Walker in Support of Motion, Exhs. 39-40, 45-46, 50, 52; Decl. of John D. Fairbrook, ¶¶ 22, 30, 32, 38 Exhs. R, U, X, DD; Decl. of Anthony Arostegui, ¶¶ 1-4; Decl. of Jennifer L. Pruski, ¶¶ 1-5; *Nazir v. United Airlines, Inc.* (2009) 178 Cal.App.4th 243, 252.)
- Summary adjudication based on issues 2, 4, 6, 8, and 10 is **DENIED**. These are not proper issues for summary adjudication as they fail to completely dispose of a cause of action, affirmative defense, claim for damages, or an issue of duty. (Code Civ. Proc., § 437c, subd. (f); *Lilienthal & Fowler v. Superior Court* (1993) 12 Cal.App.4th 1848; *Catalano v. Superior Court* (2000) 82 Cal.App.4th 91, 96-98; *Hindin v. Rust* (2004) 118 Cal.App.4th 1247, 1257-1258.)

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

If no hearing is requested, plaintiffs 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.

The Court rules upon plaintiffs Pritam Sidhu and Amanpreet Sidhu's motion for summary adjudication directed to defendants Mason McDuffie Real Estate and Michael Gaskill's answer, as follows:

Defendants' request for judicial notice of Exhibits 1 and 4 is **GRANTED**. (Evid. Code, § 452, subd. (d).) Defendants' request for judicial notice of Exhibits 2 and 3 is **DENIED**. Exhibits 2 and 3 are not copies of court-filed records. Authenticating a document as a record received in discovery, does not establish that the exhibit is a court record. (Decl. of M. Henry Walker, ¶ 2.)

Defendants' evidentiary objection nos. 5 and 6 are **SUSTAINED**. (Evid. Code, §§ 403, 702.) Defendants' remaining evidentiary objections are **OVERRULED**.

Plaintiffs' motion for summary adjudication of defendants' statute of limitations affirmative defense to plaintiffs' sixth cause of action for professional negligence is **DENIED**. (Code Civ. Proc., § 437c, subds. (f), (p)(1).) Plaintiffs fail to submit sufficient evidence to establish that defendants do not have a statute of limitations affirmative defense to plaintiffs' sixth cause of action for professional negligence as a matter of law. (Plaintiffs' Statement of Undisputed Material Facts 1-29; Decl. of John D. Fairbrook, ¶ 23, Exh. U, ¶ 78.)

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.

The Court rules upon cross-defendants Mason McDuffie Real Estate and Michael Gaskill's motion for summary judgment, or in the alternative summary adjudication directed to Grant Park Development's cross-complaint, as follows:

Cross-defendants' moving papers fail to comply with California Rule of Court 3.1110(f). Further, cross-defendants have filed two separate replies which together total 18 pages in violation of California Rule of Court 3.1113(d). The Stipulation and Order entered by the Court on April 30, 2015, did not allow for two reply briefs to be filed, nor did it extend the applicable page limit. The Court considered all of the papers filed. However, cross-defendants' counsel are reminded that they must comply with the California Rules of Court.

Cross-defendants' request for judicial notice, filed March 6, 2015, is **GRANTED** as to Exhibit 1. (Evid. Code, § 452, subd. (d).) The Court declines to take judicial notice of Exhibits 2 through 5, as they are not copies of court-filed records.

Defendants' request for judicial notice, filed May 8, 2015, is **GRANTED**. (Evid. Code, § 452, subd. (c).)

Cross-complainant Grant Park Development's ("Grant Park") request for judicial notice of Exhibits 56, 58, and 60 is **GRANTED**. (Evid. Code, § 452, subd. (d).) The Court declines to take judicial notice of Exhibits 53, 57, and 59, as they are not copies of court-filed records.

Grant Park's evidentiary objection nos. 1, 16, and 18 are **SUSTAINED**. (Evid. Code, § 1400, et seq.) Grant Park's remaining evidentiary objections are **OVERRULED**.

Cross-defendants' evidentiary objection nos. 14-26, 34, 37, 39, 41, 51, 55, 57, and 58-59 are **SUSTAINED**. (Evid. Code, §§ 403, 800, et seq., 1520 et seq.) Cross-defendants' remaining evidentiary objections are **OVERRULED**. (Cal. Rules of Court, rule 3.1354(b)(3).)

Cross-defendants' motion for summary adjudication of issues 1 through 8 is **DENIED**. (Code Civ. Proc., § 437c, subd. (f).) Triable issues of material facts exist as cross-defendants fail to submit sufficient evidence to support each of their material facts. (Cross-defendants' Statement of Undisputed Material Facts 4, 6-7, 11-12, 17, 19, 21-22, and 29; Decl. of Jerry Burger in Opposition, ¶ 17; *Nazir v. United Airlines, Inc.* (2009) 178 Cal.App.4th 243, 252.)

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

If no hearing is requested, Grant Park is 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.