

TENTATIVE RULINGS for CIVIL LAW and MOTION July 24, 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
Telephone number for the clerk in Department Seven: (530) 406-6722

TENTATIVE RULING

Case: **Johnson v. Southern California Discount Tire Co., Inc.**
Case No. CV CV 15-388
Hearing Date: **July 24, 2015** **Department Two** **9:00 a.m.**

Defendant Southern California Discount Tire Co., Inc.'s request for judicial notice is **DENIED**. (Evid. Code, § 452, subd. (d).) The matter for which notice is requested is not relevant to this proceeding.

Defendant's demurrer to the first cause of action for retaliation in violation of Labor Code sections 98.6 and 1102.5 and second cause of action for wrongful discharge in violation of public policy are **SUSTAINED WITHOUT LEAVE TO AMEND**. (Code Civ. Proc., § 430.10, subd. (e).) These claims are barred by the one-year statute of limitations. (*Barton v. New United Motor Manufacturing, Inc.* (1996) 43 Cal.App.4th 1200, 1208-09.)

Defendant's demurrer to the third cause of action for negligent hiring, retention, and supervision is **SUSTAINED WITH LEAVE TO AMEND**. (Code Civ. Proc., § 430.10, subd. (e).) This claim is preempted by the exclusive remedy provision of the California Worker's Compensation Act. (See e.g., *Coit Drapery Cleaners, Inc. v. Sequoia Insurance Company* (1993) 14 Cal.App.4th 1595 1606.)

Defendant's demurrer to the fifth cause of action for violation of Labor Code section 232.5 is **OVERRULED**. (Code Civ. Proc., § 430.10, subd. (e).) Plaintiff's complaints fall within the Labor Code section 232.5's complaint requirement.

Defendant's demurrer to the seventh cause of action for violation of Labor Code section 6310 and the eighth cause of action for violation of Labor Code section 6311 is **OVERRULED**. (Code Civ. Proc., § 430.10, subd. (e).) Liberally construed, plaintiff's complaints about the denial of meal breaks could support the finding of an unsafe condition.

Defendant's motion to strike paragraphs 23, 24, 32, and 42 of the complaint is **DENIED AS MOOT**. The Court has sustained the demurrer to the causes of action containing these paragraphs. The motion to strike paragraphs 49, 50, 58, 59, 66, 67, 74, 75, 82, 83, 89, and item 9 of the prayer, is **GRANTED**; the motion to strike paragraph 87(b) is **DENIED**. (Code Civ. Proc., § 436.)

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: **PHL Associates, Inc. v. Wallis**

Case No. CV CV 14-1023

Hearing Date: **July 24, 2015** **Department Seven** **4:00 p.m.**

Defendant Dale M. Wallis's motion to partially vacate plaintiffs' voluntary dismissal is **CONTINUED** on the Court's own motion to August 7, 2015, in Department Seven at 4:00 p.m.