

TENTATIVE RULINGS for CIVIL LAW and MOTION
August 13, 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: **Din v. KB Home Sacramento**
Case No. CV CV 14-1546
Hearing Date: **August 13, 2015** **Department Seven** **9:00 a.m.**

Plaintiffs Saira Din et al.'s motion to stay discovery and appoint a discovery referee is **DENIED**. No good cause is cited for staying discovery, and plaintiffs have not complied with California Rules of Court 3.921 and 3.924, insofar as their motion seeks the appointment of a designated referee.

The notice of motion does not provide notice of this Court's tentative ruling system as required by Local Rule 11.4(b). Counsel for moving party is ordered to notify the opposing party or parties immediately of the tentative ruling system and to be available at the hearing, in person or by telephone, in the event the opposing party or parties appear without following the procedures set forth in Local Rule 11.4(a).

TENTATIVE RULING

Case: **Grill v. Meritage Homes of Calif., Inc.**
Case No. CV CV 11-13
Hearing Date: **August 13, 2015** **Department Two** **9:00 a.m.**

Defendant Meritage Homes of California, Inc.'s request for judicial notice is **GRANTED**. (Evid. Code, § 452, subd. (d).)

Cross-defendant Harris and Sloan Consulting Group, Inc.'s ("HSC") motion to bifurcate and stay defendant's cross-complaint claims against the design professional defendants is **DENIED**. (Code Civ. Proc., §§ 598, 1048, subd. (b).) HSC has not demonstrated that bifurcation will further convenience or avoid prejudice.

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: **Scaccia v. Scaccia**
Case No. CV CV 14-1820
Hearing Date: **August 13, 2015** **Department Two** **9:00 a.m.**

Defendants Daniel J. Kennedy, M.D. and Sutter Medical Foundation’s objection to the declaration of Phally S. Kelly is **SUSTAINED**. (*Blank v. Kirwan* (1985) 39 Cal.3d 311, 318; *Fremont Indem. Co. v. Fremont Gen. Corp.* (2007) 148 Cal.App.4th 97, 114.)

Defendants’ demurrer to each cause of action brought by the Estate of Anne Ringcamp in plaintiffs’ amended complaint (“FAC”) is **SUSTAINED WITH LEAVE TO AMEND**. The FAC fails to state facts sufficient to establish that Mr. Brian Scaccia has been appointed as the personal representative of the Anne Ringcamp Estate. (Code Civ. Proc. § 377.30; FAC, ¶ 1.)

Defendants’ demurrer to Mr. Scaccia’s first cause of action for false light is **SUSTAINED WITH LEAVE TO AMEND**. (Code Civ. Proc., § 430.10, subd. (f).) Mr. Scaccia fails to allege which information defendants publicized to show plaintiff in a false light. (FAC, ¶¶ 298-300, and 304-305.)

Defendants’ demurrer to Mr. Scaccia’s second cause of action for defamation, fifteenth cause of action for fraud, sixteenth cause of action for medical negligence, eighteenth cause of action for decisions law, and nineteenth cause of action for breach of confidentiality is **SUSTAINED WITH LEAVE TO AMEND**. (Code Civ. Proc., § 430.10, subd. (e).) The FAC fails to state facts sufficient to state each of these causes of action against defendants.

Defendants’ demurrer to Mr. Scaccia’s seventeenth cause of action for wrongful death is **OVERRULED**. (Code Civ. Proc., § 430.10, subd. (e).)

Defendants’ motion to strike paragraph 9 of the prayer of the FAC requesting punitive damages is **GRANTED WITH LEAVE TO AMEND**. (Code Civ. Proc., § 436, 425.13.)

Defendants’ motion to strike “emotional distress and suffering” from paragraph 443 of the FAC is **GRANTED WITHOUT LEAVE TO AMEND**. (Code Civ. Proc., § 436, *Krouse v. Graham* (1977) 19 Cal.3d 59, 72.)

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: **Springer v. Seecon Financial & Construction Co., Inc.**
Case No. CV CV 14-1499
Hearing Date: **August 13, 2015** **Department Two** **9:00 a.m.**

Intervenor Continental Risk Management Services, Inc. did not obtain leave of Court before filing its complaints in intervention on behalf of Cal West Building & Concrete, Inc. and Ara

Enterprises, Inc. (Code Civ. Proc., § 387; *Lohnes v. Astron Computer Products* (2001) 94 Cal.App.4th 1150, 1153.) Accordingly, both complaints, filed June 30, 2015, are **STRICKEN**.

Plaintiffs Richard Springer et al.'s demurrers to the complaints in intervention are **DROPPED FROM CALENDAR**.

The notices of motion do not provide notice of this Court's tentative ruling system as required by Local Rule 11.4(b). Counsel for moving party is ordered to notify the opposing party or parties immediately of the tentative ruling system and to be available at the hearing, in person or by telephone, in the event the opposing party or parties appear without following the procedures set forth in Local Rule 11.4(a).