

TENTATIVE RULINGS for CIVIL LAW and MOTION October 26, 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.

Please take note that Yolo Superior Court is now located at 1000 Main Street, in Woodland.

Telephone number for the clerk in Department Eleven: (530) 406-6843

TENTATIVE RULING

Case: Koehler v. Pavone
Case No. CV CV 15-125

Hearing Date: October 26, 2015 **Department Eleven** **9:00 a.m.**

Cross-complainant Abe's AAA Plus, Inc.'s ("AAA") causes of action for interpleader and civil conspiracy to defraud are **DISMISSED WITHOUT PREJUDICE**. (Code Civ. Proc., § 581, subd. (b)(1); AAA's Opposition, p. 4.)

Cross-defendants Daniela Pavone and Theta Omega Association's demurrer to the first cause of action for breach of contract, second cause of action for indebitatus assumpsit, third cause of action for quantum meruit, and fifth cause of action for foreclosure of a nonpossessory or equitable lien in AAA's amended complaint is **OVERRULED**. (Code Civ. Proc., § 430.10, subd. (e).) AAA alleges facts sufficient to support each of these causes of action. (*Kasperbauer v. Fairfield* (2009) 170 Cal.App.4th 785; *Farmers Ins. Exchange v. Smith* (1999) 71 Cal.App.4th 660, 664-665; *Philpott v. Superior Court* (1934) 1 Cal.2d 512, 523; *Mayborne v. Citizens' Trust & Sav. Bank* (1920) 46 Cal.App. 178; *Maglica v. Maglica* (1998) 66 Cal.App.4th 442, 453.)

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.

Cross-complainant Indoor Air Services's ("IAS") causes of action for interpleader and civil conspiracy to defraud are **DISMISSED WITHOUT PREJUDICE**. (Code Civ. Proc., § 581, subd. (b)(1); IAS Opposition, p. 4.)

Cross-defendants Daniela Pavone and Theta Omega Association's demurrer to the first cause of action for breach of contract in IAS's amended complaint is **SUSTAINED WITH LEAVE TO AMEND**. (Code Civ. Proc., § 430.10, subd. (e).) IAS fails to state facts sufficient to support the existence of a written contract. IAS fails to attach a copy of the written contract to the complaint, or set out the terms of the written contract, verbatim, in the body of the complaint, or

provide a comprehensive statement establishing the legal effect of the contract. (*Otworth v. Southern Pac. Transportation Co.* (1985) 166 Cal.App.3d 452, 459.)

Cross-defendants' demurrer to the second cause of action for indebitatus assumpsit, third cause of action for quantum meruit, and fifth cause of action for foreclosure of a nonpossessory or equitable lien is **OVERRULED**. (Code Civ. Proc., § 430.10, subd. (e).) IAS alleges facts sufficient to support each of these causes of action. (*Kasperbauer v. Fairfield* (2009) 170 Cal.App.4th 785; *Farmers Ins. Exchange v. Smith* (1999) 71 Cal.App.4th 660, 664-665; *Philpott v. Superior Court* (1934) 1 Cal.2d 512, 523; *Mayborne v. Citizens' Trust & Sav. Bank* (1920) 46 Cal.App. 178; *Maglica v. Maglica* (1998) 66 Cal.App.4th 442, 453.)

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