

**TENTATIVE RULINGS for CIVIL LAW and MOTION**  
**January 5, 2016**

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.

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:** **Horner v. Asbestos Corp., Ltd.**  
**Case No. CV CV 13-1626**  
**Hearing Date: January 5, 2016 Department Eleven 9:00 a.m.**

Defendant Kaiser Gypsum Company, Inc.'s motion to continue trial is **GRANTED**. (Cal. Rules of Court, rule 3.1332.) The trial and trial readiness conference dates are **VACATED**.

The parties are directed to attend a case management conference on January 25, 2016, at 9:00 a.m. in Department 6.

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:** **Kolb v. City of West Sacramento**  
**Case No. CV CV 14-1710**  
**Hearing Date: January 5, 2016 Department Eleven 9:00 a.m.**

Defendant City of West Sacramento's evidentiary objections to plaintiff Klaus J. Kolb's declaration are **OVERRULED**.

Defendant's motion for summary judgment is **GRANTED**. (Code Civ. Proc., § 437c, subd. (p)(2).) Defendant submits sufficient evidence to establish that its policy and custom for providing notice prior to towing a vehicle that has been parked on a city street for more than seventy-two consecutive hours does not violate the Fourth or Fourteenth Amendments of the United States Constitution. (*Clement v. City of Glendale* (9th Cir. 2008) 518 F.3d 1090, 1094-1095, ftnt 9; *Dusenbery v. United States* (2002) 534 U.S. 161, 170; *Monell v. Dep't of Soc. Servs. of City of New York* (1978) 436 U.S. 658, 691-94; *Mullane v. Central Hanover Bank & Trust Co.* (1950) 339 U.S. 306, 314; Defendant's Undisputed Material Facts ("UMF") 1-12, 16-21; Decl. of Officer Joe Benton, ¶¶1-6, Exhs. 1-2.) Defendant further establishes that the subject Jeep was not illegally seized. (Veh. Code, § 22651, subd. (k); West Sacramento Municipal Code 19.10.003, subd. (C); Defendant's UMF 13-15; Decl. of Officer Benton, ¶ 6, Exh. 1.) The

burden therefore shifts to plaintiff to show that a triable issue of material fact exists. (Code Civ. Proc, § 437c, subd. (p)(2).) Plaintiff fails to submit sufficient evidence to support a finding that the defendant's policy and custom for providing notice prior to towing a vehicle that has been parked on a city street for more than seventy-two consecutive hours violates the Fourth or Fourteenth Amendments to the United State Constitution, or that the subject Jeep was impermissibly withheld by the City after plaintiff paid the outstanding fees. (H. Russell Taylor's Fire Prevention Serv., Inc. v. Coca Cola Bottling Corp. (1979) 99 Cal.App.3d 711, 725; Minsky v. Los Angeles (1974) 11 Cal.3d 113, 121; Niiya v. Goto (1960) 181 Cal.App.2d 682, 688.) All papers submitted show that there is no triable issue as to any material fact and therefore defendant is entitled to judgment as a matter of law.

If no hearing is requested, defendant 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.