TENTATIVE RULINGS for CIVIL LAW and MOTION
February 1, 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. 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: **Humphrey v. Eugene Burger Management Corporation**
Case No. CV CV 14-1136

Hearing Date: February 1, 2016 Department Eleven 9:00 a.m.

The Court rules upon defendant Eugene Burger Management Corporation's motion for summary judgment, or in the alternative, summary adjudication, as follows:

Defendant Eugene Burger Management Corporation's request for judicial notice is **GRANTED.** (Evid. Code, § 452, subd. (d).)

Plaintiffs Natalie Humphrey and Roger Roe's request that the Court take judicial notice of Exhibit B is **GRANTED.** (Evid. Code, § 452, subd. (d).) Plaintiffs' request that the Court take judicial notice of Exhibit A is **DENIED**. Plaintiffs fail to provide legal authority which authorizes the Court to take judicial notice of an unauthenticated police report.

Defendant's evidentiary objection nos. 13-17, 20, 42-43, and 45 are **SUSTAINED**. (Evid. Code, §§ 350, 403, *Kramer v. Barnes* (1963) 212 Cal. App.2d 440, 446; *People v. Morrison* (2004) 34 Cal.4th 698, 711.) The Court declines to rule on defendant's remaining objections as they are immaterial to the disposition of defendant's motion. (Code Civ. Proc., § 437c, subd. (q).)

The Court declines to rule on plaintiffs' objections as they are not framed as objections to evidence, but instead to defendant's undisputed material facts.

Defendant's motion for summary judgment is **GRANTED**. (Code Civ. Proc., § 437c, subds. (c), (p)(2).) Defendant establishes that Kirt Marvin Weatherwax was not acting within the scope of his employment as a maintenance technician when the alleged sexual harassment against plaintiff Natalie Humphrey took place. Defendant further establishes that it did not ratify Mr. Weatherwax's conduct and it was not negligent in the hiring of Mr. Weatherwax. Plaintiffs fail to successfully raise an issue as to any material fact. (*White v. Ultramar, Inc.* (1999) 21 Cal.4th 563, 569-571; *Federico v. Superior Court* (1997) 59 Cal.App.4th 1207, 1210-1211; *Farmers Ins. Group v. County of Santa Clara* (1995) 11 Cal.4th 992, 1005-1007; *Lisa M v. Henry Mayo Newhall Memorial Hospital* (1995) 12 Ca1.4th 291, 296; *College Hospital Inc. v. Superior Court*

(1994) 8 Cal.4th 704, 726; *Kelly v. Gen Tel Co.* (1982) 136 Cal.App.3d 278, 286; *Golden West Broadcasters, Inc. v. Superior Court* (1981) 114 Cal.App.3d 947, 957-958; *Borg-Warner Protective Services Corp. v. Superior Court* (1999) 75 Cal.App.4th 1203, 1207-1212; *Mary M. v. City of Los Angeles* (1991) 54 Cal.3d 202, 213; Defendant's Statement of Undisputed Material Facts 26-222; Decl. of Angela Penera, ¶¶ 1-5, Exh. A; Decl. of Sheryl Kelley, ¶¶ 1-9, Exh. A; Decl. of Ioana R. Mondescu, ¶¶ 1-5, Exhs. A-C.)

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.

The Court rules upon defendant Kirt Marvin Weatherwax's motion for summary adjudication as follows:

Plaintiffs Natalie Humphrey and Roger Roe's request that the Court take judicial notice of Exhibit B is **GRANTED.** (Evid. Code, § 452, subd. (d).) Plaintiffs' request that the Court take judicial notice of Exhibit A is **DENIED**. Plaintiffs fail to provide legal authority which authorizes the Court to take judicial notice of an unauthenticated police report.

Defendant Kirt Marvin Weatherwax's evidentiary objection nos. 5-6, 78, and 80-81 are **SUSTAINED**. (Evid. Code, § 702; *Tuchscher Dev. Enterprises, Inc. v. San Diego Unified Port Dist.* (2003) 106 Cal.App.4th 1219, 1240; *Snider v. Snider* (1962) 200 Cal.App.2d 741, 751.) The Court declines to rule on defendant's remaining objections as they are immaterial to the disposition of defendant's motion. (Code Civ. Proc., § 437c, subd. (q).)

The Court declines to rule on plaintiffs' objections as they are not framed as objections to evidence, but instead to defendant's undisputed material facts.

Defendant's motion for summary adjudication of issues 1 through 3 is **GRANTED**. (Code Civ. Proc., § 437c, subds. (f); (p)(2).) Defendant establishes that he was not the owner, landlord, or property manager of the Winters Village Apartments. Defendant further establishes that a qualifying business, service, or professional relationship did not exist between defendant and plaintiffs. Plaintiffs fail to successfully raise an issue as to any material fact. (Code Civ. Proc., §§ 51, 51.9, subd. (a)(1); Gov. Code, §§ 12927, 12940, 12955, et seq.; *Hughes v. Pair* (2009) 46 Cal.4th 1035, 1044; Defendant's Statement of Undisputed Material Facts 1-24; Decl. of Weatherwax, ¶¶ 1-9.)

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.

TENTATIVE RULING

Case:	**Nakken v. Acadian Properties, Inc.**		
	Case No. CV CV 13-1001		
Hearing Date:	**February 1, 2016**	**Department Eleven**	**9:00 a.m.**

Plaintiffs' third amended complaint, filed on January 13, 2016, is **STRICKEN**. Plaintiffs already exercised their right to file a first amended complaint without leave of Court. (Code Civ. Proc., § 472.) Plaintiffs did not obtain leave to file it. (Code Civ. Proc., § 472.)

Defendants and cross-complainants Acadian Properties, Inc. and Ally Property Management, Inc.'s motion to strike is **CONTINUED** on the Court's own motion to be heard on February 19, 2016. Plaintiffs shall file an opposition, if any, by no later than February 2, 2016. Defendants may file a reply by February 12, 2016.

TENTATIVE RULING

Case:	**Singh v. Doe**		
	Case No. CV UD 15-1702		
Hearing Date:	**February 1, 2016**	**Department Eleven**	**9:00 a.m.**

Defendant Darlene Doe's demurrer to the complaint is **DROPPED FROM CALENDAR.** A first amended complaint has been filed. (Code Civ. Proc., § 472.)