

TENTATIVE RULINGS for CIVIL LAW and MOTION
September 27, 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 on Yolo Court's 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: Eldridge v. Eldridge
Case No. CV CV 16-987

Hearing Date: September 27, 2016 Department Eleven 9:00 a.m.

Defendants Sean Eldridge and Michael Eldridge's demurrer to plaintiff Dennis Eldridge's entire complaint is **OVERRULED**. (Code Civ. Proc., § 430.10, subd. (f).) The complaint is not so ambiguous or unintelligible that defendants cannot respond. (*Khoury v. Maly's of Calif.* (1993) 14 Cal.App. 4th 612, 616.)

Defendants' demurrer to plaintiff's cause of action for an accounting is **SUSTAINED WITH LEAVE TO AMEND**. (Code Civ. Proc., § 430.10, subd. (e).) Plaintiff fails to state facts sufficient to support a cause of action for an accounting. (*Heber v. Yaeger* (1967) 251 Cal.App.2d 258, 264; *Dabney-Johnston Oil Corp. v. Walden* (1935) 4 Cal.2d 637, 656; *Pico v. Columbet* (1859) 12 Cal.414, 419-420.)

The notice of motion does not provide notice of the 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: Rai v. Hardesty
Case No. CV PM 15-873

Hearing Date: September 27, 2016 Department Eleven 9:00 a.m.

Defendants Kerry Justine Hardesty and Craig Anderson's motion to compel compliance with the deposition subpoena for production of business records served on True Value Hardware is **DENIED**. (Code Civ. Proc., §§ 1987.1, 2025.480.) The declaration of Noelle D. Goldberg, filed in support of the motion, fails to state facts showing that a reasonable and good faith attempt at an informal resolution was made prior to filing the current motion. (Decl. of Goldberg, ¶¶ 6-7,

Exh. B; Code Civ. Proc., § 2016.040; *Townsend v. Superior Court* (1998) 61 Cal.App.4th 1431, 1435.) Further, defendants fail to submit evidence to establish that True Value Hardware has failed and/or refused to make the original business records available for copying, as requested in the deposition subpoena. (Decl. of Goldberg, ¶¶ 6-8, Exh. A.)

The request for sanctions is **DENIED**. (Code Civ. Proc., § 2023.030.)

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).