

TENTATIVE RULINGS for CIVIL LAW and MOTION

November 10, 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: **Bank of America, N.A. v. Kochai**
Case No. CV G 15-650

Hearing Date: **November 10, 2016** **Department Eleven** **9:00 a.m.**

Plaintiff Bank of America, N.A.'s separate statement fails to comply with California Rule of Court 3.1350(d)(3). Plaintiff's separate statement fails to state in numerical sequence plaintiff's undisputed material facts. Plaintiff's attorneys are reminded that they must comply with the California Rules of Court.

Plaintiff's motion for summary adjudication of its first cause of action for common counts is **DENIED**. Plaintiff fails to set forth facts establishing every element necessary to entitle plaintiff to a judgment in its favor on its common counts cause of action for an account stated as alleged in its complaint. (Code of Civ. Proc., §§ 437c, subd. (p)(1); *Trafton v. Youngblood* (1968) 69 Cal.2d 17, 25; *Zinn v. Fred R. Bright Co.* (1969) 271 Cal. App. 2d 597, 600; *Nazir v. United Airlines, Inc.* (2009) 178 Cal.App.4th 243, 252; Plaintiff's Separate Statement of Undisputed Material Facts ("UMF"), e-f; Decl. of Melinda K. Stephenson, ¶¶ 1-7, Exh. A.) Plaintiff fails to submit evidence to support a finding that the billing statement attached as Exhibit A to the declaration of Melinda K. Stephenson was mailed to defendant Dawa J. Kochai, or that defendant failed to object to it.

Plaintiff's motion for summary adjudication of its second cause of action for breach of contract is **DENIED**. Plaintiff has presented identical undisputed material facts in its separate statements for each cause of action. In so doing, plaintiff has conceded the materiality of each of these facts. If a triable issue is raised as to any of these facts, the motion must be denied. (*Nazir v. United Airlines, Inc.* (2009) 178 Cal.App.4th 243, 252.) Plaintiff fails to submit evidence to support UMF e and UMF f. (Plaintiff's UMFs e-f; Decl. of Stephenson, ¶¶ 1-7, Exh. A.)

Plaintiff's motion for summary judgment is **DENIED**.

If no hearing is requested, plaintiff 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: **Petition of Harris-Martin**
 Case No. CV PT 16-1430

Hearing Date: **November 10, 2016** **Department Eleven** **9:00 a.m.**

Cheyenne Alexandra Harris-Martin's petition for change of name is **GRANTED**. (Code Civ. Proc., § 1275, et seq.) No written objections were filed with the Court.

The above portion of this tentative ruling is effective immediately. (Code Civ. Proc., § 1277, subd. (a)(1).)

The petitioner and all interested persons are **DIRECTED TO APPEAR** at the hearing on the petition for change of gender. (Health & Saf. Code, §§ 103430, subd. (b), 103435.) No request for a hearing is required.