TENTATIVE RULINGS for CIVIL LAW and MOTION
November 17, 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: **Jensen v. Seecon Financial and Const. Co.**
Case No. CV CV 15-1171
Springer v. Seecon Financial and Const. Co.
Case No. CV CV 14-1499

Hearing Date: November 17, 2016 Department Eleven 9:00 a.m.

Defendants Seecon Financial and Construction Co. and Discovery Builders, Inc.'s unopposed motion to consolidate:

Defendants' motion to consolidate the two above-referenced matters is **GRANTED**. (Code Civ. Proc., § 1048, subd. (a).)

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).

Springer v. Seecon Financial & Const. Co., Inc., CV CV 14-1499, motion to compel:

Plaintiffs' motion to compel further responses to Request for Admission ("RFA") `Nos. 1-67 from defendants Seecon Financial & Const. Co., Inc. and Discovery Builders, Inc. ("defendants") is **GRANTED**. (Code Civ. Proc., § 2033.290, subd. (a).) Information known to a party's attorney or expert witnesses is deemed "obtainable" by the party. Therefore, responses to RFAs must be made in light of such information. (*Chodos v. Sup. Ct.* (1963) 215 Cal.App.2d 318, 323-4 [improper to deny RFA claiming lack of personal knowledge, where party's expert witness had the information]; *Bloxham v. Saldinger* (2014) 228 Cal.App.4th 729, 751 ["A party to an action may not necessarily avoid responding to a request for admission on the ground that the request calls for expert opinion and the party does not know the answer."].) The RFAs are not objectionable merely because they seek an expert opinion. Defendants shall revise their responses to comply with Code of Civil Procedure section 2033.220(b) and (c), based on the information presently known to them, if any.

Plaintiffs' motion to compel further responses from defendants to Form Interrogatory Nos. 15.1 and 17.1 is **GRANTED**. (Code Civ. Proc., § 2030.300, subd. (a).) It is improper for defendants to refer to their Answer to respond to Form Interrogatory No. 15.1. Defendants shall revise their responses to comply with Code of Civil Procedure section 2030.220(b) and (c), based on the information presently known to them, if any. Defendants shall revise their response to Form Interrogatory No. 17.1 to the extent necessitated by any revisions to their responses to RFA Nos. 1-67.

Defendants' request for monetary sanctions is **DENIED**.

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.

Jensen v. Seecon Financial & Const. Co., Inc., CV CV 15-1171, motion to compel:

Plaintiffs' motion to compel further responses to Request for Admission Nos. 1-67 from defendants is **GRANTED**. (Code Civ. Proc., § 2033.290, subd. (a).) If defendants lack sufficient information to respond to these requests based on a lack of personal knowledge, they shall revise their responses thereto to comply section 2033.220(c).

Plaintiffs' motion to compel further responses from defendants to Form Interrogatory Nos. 12.1-12.7, 14.1-14.2, 15.1, 16.1-16.3, 16.7, and 50.1-50.6, is **GRANTED**. (Code Civ. Proc., § 2030.300, subd. (a).) While the term "INCIDENT" as it applied to the facts and circumstances of this case may be ambiguous, the responding parties have a duty to answer these interrogatories using this term in good faith to the extent possible. They are not so ambiguous as to be unintelligible. (Code Civ. Proc., § 2030.220, subds. (a), (b).) If defendants do not have personal knowledge sufficient to respond fully to an interrogatory, they shall so state. Defendants are obligated to make a reasonable and good faith effort to obtain the information. (Code Civ. Proc., § 2030.220, subd. (c).) Defendants did not lodge a timely objection to Form Interrogatory Nos. 50.1-50.6 on the ground that these interrogatories did not seek relevant information.

Defendants' request for monetary sanctions is **DENIED**.

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: **Juarez v. City of West Sacramento**
Case No. CV PM 15-484
Hearing Date: **November 17, 2016** **Department Eleven** **9:00 a.m.**

Defendant City of West Sacramento ("City")'s request for judicial notice is **GRANTED**. (Evid. Code, § 452, subd. (d).)

Defendant City's amended evidentiary objection nos. 1-5, and 8-12 to plaintiff Monica Juarez's evidence, filed on October 27, 2016, are **SUSTAINED**. (Evid. Code, §§ 403, 801, 1105, 1400, & 1401.) Evidentiary objection nos. 6 and 7 are **OVERRULED**.

The Court need not reach defendant Monika Ram's request for judicial notice. (Evid. Code, § 452.)

The Court need not reach defendant City's evidentiary objections to defendant Monika Ram's evidence. (Code Civ. Proc., § 437c, subd. (q).)

The Court need not reach defendant Ram's evidentiary objections to defendant City's evidence. (Code Civ. Proc., § 437c, subd. (q).)

The Court does not consider evidentiary objections made by plaintiff only in her response to defendant City's separate statement. They are not formatted as required by California Rule of Court 3.1354.

Defendant City's motion for summary judgment is **DENIED**. (Code Civ. Proc., § 437c, subd. (p)(2).) There is a triable issue of fact as to whether a dangerous condition of public property existed and whether defendant is immune from liability as a result of design immunity. (UMF 150; Gov. Code, §§ 830.6, 836.) There is a triable issue of material fact as to whether defendant is immune from liability as a result of trail immunity. (UMF 108; Defendant's Response to Plaintiff's Additional Disputed Fact 11; Gov. Code, § 831.4; *Farnham v. City of Los Angeles* (1998) 68 Cal.App.4th 1097, 1103.)

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 Rules of Court, rule 3.1312.

TENTATIVE RULING

Case:	**Mehl v. Countrywide Bank, N.A.**		
	Case No. CV CV 16-990		
Hearing Date:	**November 17, 2016**	**Department Eleven**	**9:00 a.m.**

Plaintiff Gavin Mehl's motion for a preliminary injunction is **DROPPED FROM CALENDAR**. Plaintiff has failed to file a proof of service for the moving papers at least five court days before the date of the hearing. (Cal. Rules of Court, rule 3.1300(c); Code Civ. Proc., § 1005, subd. (b).)

TENTATIVE RULING

Case:	**Portnoy v. Alba**		
	Case No. CV CV 16-900		
Hearing Date:	**November 17, 2016**	**Department Eleven**	**9:00 a.m.**

Plaintiff Sergei Portnoy's motion for reconsideration of this Court's ruling on August 9, 2016, is **DENIED**. (Code Civ. Proc., § 1008.) Plaintiff fails to show by affidavit the existence of "new or different facts, circumstances, or law" and the motion is untimely. (Code Civ. Proc., § 1008, subd. (a).)

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).