

TENTATIVE RULINGS for CIVIL LAW and MOTION
August 6, 2015

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.

Telephone number for the clerk in Department Two: (530) 406-6843

TENTATIVE RULING

Case: Grant v. Sutter Davis Hospital
Case No. CV PO 13-1173
Hearing Date: August 6, 2015 Department Two 9:00 a.m.

Defendant Sutter Health Sacramento Sierra Region’s (“Sutter”) motion for summary judgment to plaintiffs Jerry Grant and Regan Grant’s complaint is **GRANTED**. (Code Civ. Proc., § 437c, subds. (c) & (p)(2).) All papers submitted show that there is no triable issue as to any material fact and that Sutter is entitled to judgment as a matter of law. (Defendant’s Separate Statement of Undisputed Material Facts 1-10; Decl. of Kathryn L. Biasotti, R.N., ¶¶ 1-11, Exh. 1; Plaintiffs’ Statement of Non-Opposition.) The Court declines to consider defendant Vishnu Singh, M.D.’s opposition, as he fails to establish that he has standing to oppose the motion. (Code Civ. Proc., § 437c, subd. (p)(2).) Further, even if Dr. Singh’s opposition was considered, it is insufficient to raise a triable issue of material fact as to Sutter’s liability. (Decl. of Vishnu Singh, M.D., ¶¶ 1-9.)

If no hearing is requested, this tentative ruling is effective immediately. Sutter 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 3.1312.

TENTATIVE RULING

Case: Juarez v. Ram
Case No. CV PM15-484
Hearing Date: August 6, 2015 Department Two 9:00 a.m.

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

Defendant’s demurrer to the second cause of action for a dangerous condition of public property is **OVERRULED**. (Code Civ. Proc., § 430.10, subd. (e).) Plaintiff Monica Juarez has pleaded sufficient facts to establish a prima facie case under Government Code section 835, and defendant does not demonstrate that it is immune from suit.

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: Offrecio v. Rinetti
Case No. CV UD 15-902
Hearing Date: August 6, 2015 Department Two 9:00 a.m.

Defendants Brian and Gina Rinetti’s motion to strike is **GRANTED**. (*Saberi v. Bakhtari* (1985) 169 Cal.App.3d 509, 515.) Paragraphs 7, 8, 10, 17(c), and the notice to pay rent or quit attached as Exhibit 2 to the complaint are stricken.

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: Salazar v. Bank of America
Case No. CV CV 15-508
Hearing Date: August 6, 2015 Department Two 9:00 a.m.

Defendant Bank of America, N.A.’s motion for judgment on the pleadings is **DENIED**. (Code Civ. Proc., § 438, subd. (c)(1)(B).) Defendant’s motion is premised on plaintiff’s claims being barred by the affirmative defenses of judicial estoppel and res judicata. Neither of these affirmative defenses has been pled in defendant’s answer. (*JSJ Ltd. Partnership v. Mehrban* (2012) 205 Cal.App.4th 1512, 1526; *Aetna Casualty & Surety Ins. v. Humboldt Leaders, Inc.* (1988) 202 Cal.App.3d 921, 930.) Accordingly, they cannot be raised as bases for a motion for judgment on the pleadings.

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: Scaccia v. Scaccia
Case No. CV CV 14-1820
Hearing Date: August 6, 2015 Department Two 9:00 a.m.

Defendants Daniel J. Kennedy, M.D. and Sutter Medical Foundation’s demurrer and motion to strike portions of plaintiffs Brian Scaccia and the Estate of Anne Ringcamp’s first amended complaint (“FAC”) are **DROPPED FROM CALENDAR**. The demurrer and motion to strike are untimely. The FAC was filed on January 9, 2015, and personally served on defendants on February 6, 2015. (Code Civ. Proc., § 413.40.) Demurrers and motions to strike must be filed within 30 days of service of the complaint. (Code Civ. Proc., §§ 412.20, subd. (a)(3), 430.40, subd. (a), 435, subd. (b)(1).) The demurrer and motion to strike were filed on June 8, 2015.

