

TENTATIVE RULINGS for LAW and MOTION
August 8, 2019

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.

Telephone number for the clerk in Department Eight (530) 406-6927
Telephone number for the clerk in Department Twelve (530) 406-6888

TENTATIVE RULING

Case: Dos Pinos Housing v. Brewer
Case No. CV UD 19-1355
Hearing Date: August 8, 2019 Department Twelve 9:00 a.m.

Defendants Kelly Brewer and Charles Brewer's motion to quash service of summons and complaint is **DROPPED FROM CALENDAR**. Defendants did not file a memorandum in support of their motion. (Cal. Rules of Court, rules 3.1112, 3.1113.)

TENTATIVE RULING

Case: Levy v. Sherman
Case No. CV G 18-198
Hearing Date: August 8, 2019 Department Eight 9:00 a.m.

Plaintiffs' request for judicial notice is **DENIED**, as it is not relevant to the Court's determination of defendants' motion for summary judgment. (*People v. Rowland* (1992) 4 Cal.4th 238, 268 fn. 6.)

Plaintiffs' evidentiary objection nos. 1 and 3 to the deposition of Michael Levy are **SUSTAINED**. Plaintiffs' evidentiary objection no. 2 is **OVERRULED**.

Defendants' motion for summary judgment is **DENIED**. (Code Civ. Proc., § 437c, subd. (a)(1).) There is a triable issue of fact as to whether defendants engaged in fraudulent concealment. (UMF 6, 7, 9, 17, 18, 20, 28, 29, 31; *Felburg v. Don Wilson Builders* (1983) 142 Cal.App.3d 383, 392; Code of Civ. Pro, § 337.15, subd. (f).)

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: **Perez v. Communicare Health Centers**
Case No. CV CV 19-469

Hearing Date: **August 8, 2019** **Department Twelve** **9:00 a.m.**

Defendant Communicare Health Centers's request for judicial notice, comprised of identical complaints and other superior court rulings on demurrers thereto, is **DENIED**. (Evid. Code, § 452, subd. (d).) The complaint's similarity to other complaints filed in other courts is irrelevant for purposes of this demurrer. The proper inquiry is whether the complaint states facts sufficient to constitute a cause of action.

The Court does not consider any case citations to Lexis. Neither party has provided copies of these authorities and the Court does not have access to Lexis.

Defendant's demurrer to plaintiff Ignacio Perez's first amended complaint is **SUSTAINED WITH LEAVE TO AMEND**. (Code Civ. Proc., § 430.10, subd. (e).) As pled, plaintiff fails to set forth the facts of his case with reasonable precision and with particularity sufficient to acquaint a defendant with the nature, source, and extent of his causes of action. (*Youngman v. Nevada Irrigation Dist.* (1969) 70 Cal.2d 240, 245.) The demurrer is sustained with leave to amend on the additional basis that plaintiff fails to plead sufficient facts to establish the existence of an ascertainable and sufficiently numerous class, a well-defined community of interest, and substantial benefits from certification that render proceeding as a class superior to the alternatives. (*Ayala v. Antelope Valley Newspapers, Inc.* (2014) 59 Cal.4th 522, 529-34.)

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.