

Tentative Rulings – December 16, 2004

To request a hearing on any matter on this calendar, you must call the Court at (209) 223-6360 by 4:30 p.m. today. Notice of the intention to appear must also be given to all other parties. If the clerk is not notified of a party's intention to appear, there will be no hearing and the tentative ruling becomes the order of the court.

Metzgar Associated Builders, Inc. v. Aparicio – 04CV3500 – Plaintiff's Motion to Stay Proceedings

The plaintiff's motion to stay proceedings is granted.

Unless a hearing is requested, this minute order is effective immediately. No formal order per California Rules of Court, Rule 391 is needed, nor is further notice of this ruling required.

Cooley v. State of California – 03CV2887 – Defendant's Motion for Summary Judgment

The defendant's motion for summary judgment is granted. An essential element of the plaintiff's claim against the defendant is the existence of a dangerous condition of public property. However, the evidence in support of the motion is sufficient to negate this element. The declaration of Mark Orr establishes that prior to the incident involving the plaintiff, there have been no pedestrian accidents within 300 feet of the intersection plaintiff alleges is dangerous.

The defendant negated an essential element of the plaintiff's claim and the plaintiff failed to file any opposition and therefore, failed to raise a triable issue of material fact.

The plaintiff failed to present any evidence from which it could be inferred that the defendant was negligent or created a dangerous condition on public property.

Unless a hearing is requested, this minute order is effective immediately. No formal order per California Rules of Court, Rule 391 is needed, nor is further notice of this ruling required.